

HUMBOLDT COUNTY TRIAL COURT RULES

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CHAPTER 1. CONTINUANCES

Rule 1.1. Continuance Policy - No Continuance by Stipulation

A stipulation by the parties is not a sufficient basis for a continuance of a pretrial or settlement conference. Any requests for such a continuance shall be made by letter to the Court Executive Office which has authority to reschedule such matters.

(Effective July 1, 1994)

Rule 1.2. Continuance of Case Set for Trial

A stipulation by the parties is not a sufficient basis for a continuance of a case set for trial. A party seeking a continuance, whether contested or uncontested, shall serve and file a notice of motion, together with supporting declarations, for hearing on the Continuance Calendar of the Judge scheduled to hear the matter (short causes), the Delay Reduction Continuance Calendar (long causes) or the Non-Delay Reduction Continuance Calendar (long causes). No continuance otherwise requested shall be granted by the Court except in extreme emergencies, such as serious accident or death. A trial or hearing continued by the Court or upon a motion by a party shall, unless otherwise directed by the Court, be reset for trial or hearing by the Court at the time the motion is granted or as soon as possible thereafter by the Court Executive Office.

(Effective July 1, 1994)

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Rule 1.3. Continuance of Post-Trial Matter

Following any trial by the Court without a jury, no continuance or extension for performing any act shall be granted upon stipulation without approval of the Court.

(Effective July 1, 1994)

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CHAPTER 2. SETTING CASES FOR TRIAL OR ARBITRATION

Rule 2.1. Setting for Trial or Arbitration

(a) At-Issue Memorandum. (See Appendix 2.1) An at-issue memorandum shall be served and filed on a court-approved form furnished by the County Clerk. If any party to the action disagrees with the statements contained in said at-issue memorandum, the party shall file a counter at-issue memorandum within ten (10) days.

(b) Assignment to Arbitration. The Court shall determine, based upon the at-issue memorandum, if the amount of controversy exceeds \$50,000.00 and/or if the case is exempt from arbitration pursuant to California Rules of Court. If neither, the case shall be assigned to arbitration.

(c) Notice of Arbitration. Notice of assignment to arbitration shall be sent to all parties by the Court.

(d) Trial Setting. Cases shall be set for trial by the Court Executive Office, based on information contained in the at-issue memorandum, or by the Court at a Delay Reduction Case Management Conference.

(Effective July 1, 1994)

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CHAPTER 3. SETTLEMENT CONFERENCES

Rule 3.1. Settlement Conferences

(a) Settlement Conference. The Court will schedule a settlement conference two or three weeks before the scheduled trial date in all civil cases except short causes and such other cases as the Court may determine will not benefit from a settlement conference.

(b) Duty of Attorneys and Others as to Settlement Conferences. Each party claiming damages shall furnish to all other parties at least five (5) days before the Settlement Conference an itemized list of the special damages and the amount of general damages claimed, and in a personal injury or wrongful death case, a settlement offer. Except as otherwise directed by the Court for good cause shown, all parties, their attorneys who are to try the case, and, when a party is insured, a representative of the insurance company who has authority to settle the case, shall attend the Settlement Conference. Upon written request by counsel to the Court Executive Office five (5) days in advance of the Settlement Conference, the Court may on a showing of good cause excuse attendance by a party or insurance representative whose counsel is present at the conference. The person excused shall be immediately available by telephone at all times

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during the conference.

Each attorney attending a settlement conference shall have a thorough knowledge of the evidence, and shall be prepared to discuss the facts and law pertaining to both liability and damages. In a personal injury or wrongful death case, each attorney shall bring to the conference a copy of each medical report that pertains to the case. Each party shall prepare a Settlement Conference Statement, which shall be filed with the Court no less than five (5) days prior to the conference. If prior statements have been filed, the Court requires updated statements if the prior statement is over six (6) months old and/or if there have been substantial changes in liability or damages.

Not less than two (2) days before the Settlement Conference, opposing counsel will discuss their mutual contentions based on the Settlement Conference Statements. They shall explore a possible settlement at that time. If settlement cannot be obtained at that point, they will isolate all areas of:

- (1) Agreement;
- (2) Disagreement; and
- (3) Be prepared to report these to the Court.

(Effective July 1, 1994)

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Rule 3.2. Sanctions for Failure to Attend Conference

The failure of any person to prepare for (including the submission of any required documents), appear at, or participate in a pretrial or settlement conference as required by these rules or an order of the Court, unless good cause is shown for that failure, is an unlawful interference with the proceedings of the Court, and the Court may impose appropriate sanctions, including but not limited to the following:

- (1) Monetary sanctions,
- (2) Payment of the opposing party's costs, including actual expenses and counsel fees,
- (3) An appropriate change in the calendar status of the case.

(Effective July 1, 1994)

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CHAPTER 4. CIVIL TRIAL AND HEARINGS

Rule 4.1. Civil Trial Rules

(a) In all jury trials and in civil non-jury trials anticipated to require more than of two (2) days, each party may submit a trial memorandum, not to exceed seven (7) pages, setting forth a statement of the nature of the case, the general contentions of the party submitting the statement and a memorandum of points and authorities (not to exceed fifteen (15) pages) upon any unusual questions of law anticipated to be presented. The original of this document shall be filed with the County Clerk not less than five (5) days prior to the scheduled date of trial.

(b) Jury Trial Conference. On the first day of a jury trial unless otherwise ordered, all attorneys shall attend a conference beginning thirty (30) minutes before trial, for the purpose of determining the trial procedures. Each attorney shall submit to the trial judge proposed jury instructions and a written statement consisting of the following except those items already submitted during a pretrial:

(1) A list of all witnesses expected to be called by the party;

(2) A statement of the nature of the case and the general contentions of the party submitting the

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statement;

(3) If desired by the attorney, a list of voir dire questions to be asked by the judge, including specific references to questions in the Standards of Judicial Administration 98;

(4) If desired by the attorney or ordered by the judge, a glossary of technical or unusual terms expected to be used during the trial;

(5) Any evidentiary questions to be decided prior to, or during, trial together with points and authorities where appropriate.

(c) In Limine Motions. All in limine motions shall be in writing and filed and served no later than noon of the court day before commencement of the trial.

(d) Examination of Witness or Jurors. Unless otherwise permitted by the Court, only one attorney for each party shall examine or cross-examine a witness or prospective juror.

(e) Attorney as Witness. Unless otherwise permitted by the Court for good cause shown, an attorney who has testified as a witness in a contested case shall not argue such case before the Court or jury except when the appearance as witness was only by reason of having been called to the witness stand by opposing counsel or when the attorney's testimony is only in regard to ministerial matters or having to do with attorney

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fees.

(Effective July 1, 1994)

Rule 4.2. Jury Fees and Expenses - Deposit

In addition to the jurors' per diem and mileage, it is the obligation of the party who demands a jury trial in a civil action to deposit the necessary amount, as determined by the trial judge, to pay the cost of food, lodging, and other necessities of the jurors until they are discharged by the Court. The monies shall be paid to the County Clerk. Any amount remaining after payment of such expenses shall be returned with appropriate receipts to the party. Failure to advance such costs upon request of the Court shall be deemed a waiver of trial by jury unless the other party promptly deposits such costs, and the Court, in its discretion, may proceed to judgment without a jury or, upon such terms as may be just, with a jury.

(Effective July 1, 1994)

Rule 4.3. Proposed Pattern Jury Instructions

In jury trials, the instruction forms contained in the latest editions of California Jury Instructions - Civil (BAJI) shall be used when applicable. Counsel shall fill in all blanks and make any necessary changes on such forms.

The Court will consider proposed instructions submitted by the attorneys for the parties, in addition to those contained in BAJI, pursuant to California Rule of Court 229. When requesting a BAJI

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instruction, counsel shall request such instruction by title and number as in BAJI.

(Effective July 1, 1994)

Rule 4.4. Persons to be Excluded or Excused from Jury Service

(a) Qualifications. The Jury Commissioner shall determine the statutory qualifications of each prospective juror, and the existence of any infirmity which would impair the proper performance of jury duty. The Jury Commissioner shall exclude from jury service all persons who are not competent to serve by law.

(b) Standards. The Jury Commissioner may, upon request, excuse or defer services of a prospective juror in accord with the Code of Civil Procedure §200, and with the following policies:

(1) No class or category of persons should be automatically excluded from jury duty except as provided by law.

(2) A statutory exemption from jury service should be granted only when the eligible person claims it.

(3) Deferring jury service should be preferred to excusing a prospective juror for a temporary or marginal hardship.

(4) Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury duty,

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although it may be considered a ground for deferral.

(c) Grounds Constituting Undue Hardship.

(1) The prospective juror has no reasonably available means of public or private transportation to the Court.

(2) The prospective juror must travel an excessive distance, over two and one-half (2 1/2) hours one way.

(3) The prospective juror will bear an extreme financial burden. In determining whether to excuse the prospective juror, considerations should be given to:

(i) the sources of the prospective juror's household income,

(ii) the availability and extent of income reimbursement,

(iii) the expected length of service, and

(iv) whether service can reasonably be expected to compromise that person's ability to support himself or herself or his or her dependents, or so disrupt the economic stability of any individual as to be against the interest of justice.

(4) The prospective juror will bear an undue risk of material injury to or destruction of the prospective juror's property or property entrusted to the prospective juror where it is not feasible to make alternative arrangements to alleviate the risk. In determining

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whether to excuse the prospective juror, consideration should be given to:

- (i) the nature of the property,
- (ii) the source and duration of the risk,
- (iii) the probability that the risk will be realized,
- (iv) the reason why alternative arrangements to protect the property cannot be made, and
- (v) whether material injury or destruction of the property will so disrupt the economic stability of any individual as to be against the interests of justice.

(5) The prospective juror has a physical or mental disability or impairment, not affecting that person's competence to act as a juror, that would expose the potential juror to undue risk of mental or physical harm.

In any individual case, except where the person is aged seventy (70) years or older, the prospective juror may be required to furnish verification or a method of verification of the disability or impairment, its probable duration, and the particular reasons for the person's inability to serve as a juror.

(6) The prospective juror's services are immediately needed for the protection of the public health and

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safety, and it is not feasible to make alternative arrangements to relieve the person of these responsibilities during the period of service as juror without substantially reducing essential services.

(7) The prospective juror has a personal obligation to provide actual and necessary care to another, including sick, aged, or infirmed dependents, or a child who requires the prospective juror's personal care and attention, and no comparable substitute care is either available or practical without imposing undue economic hardship on the prospective juror or person cared for. Where the request to be excused is based on care provided to a sick, disabled or infirmed person, the prospective juror may be required to furnish verification or a method of verification that the person being cared for is in need of regular and personal care.

(d) Requests to be Excused. All requests to be excused from jury service that are granted for undue hardship should be in writing from the prospective juror, reduced to writing, or placed on the Court's record. The prospective juror should support the request with facts specifying the hardship and a statement why the circumstances constituting the undue hardship cannot be avoided by deferring the prospective juror's service.

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(e) Procedure. Requests for exclusion or excuse from jury service are determined by the Jury Commissioner who shall fairly weigh and consider all relevant information. The Jury Commissioner may require a written statement from the prospective juror, or may request a letter from a physician or employer to substantiate the reasons for the requested deferment or excuse, and may personally interview the prospective juror if the Jury Commissioner deems it desirable.

After adverse decision by the Jury Commissioner, a prospective juror may request that the matter be referred to the Presiding Judge for determination. The disposition of the request, and the reasons therefore, shall be noted upon appropriate records maintained by the Jury Commissioner.

(f) Prior Jury Service. A prospective juror who has served on a grand or trial jury service or was summoned and appeared for jury service in any state or federal court during the immediately preceding twelve (12) months, or any longer period as the Court determines appropriate, shall be excused from service on request.

(Effective July 1, 1994)

Rule 4.5. Common Jury Panel

Within the County, the Municipal Court may use the same jury panel as that summoned by the Superior Court.

(Effective July 1, 1994)

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CHAPTER 5. LAW AND MOTION RULES

Rule 5.1. Law and Motion Rules; Applicability

Except where another rule is specifically applicable, the rules of this section shall apply to all Law and Motion proceedings except those matters involving Criminal or Family Law.

(Effective July 1, 1994)

Rule 5.2. Motions to be Relieved as Counsel; Substitution of Attorneys

(a) Confirmation of Client's Address. All motions to be relieved as counsel must contain a declaration concerning confirmation of the client's address at or near the time of the filing of the motion. If the declaration shows that counsel is unable to locate the client after making a diligent effort, counsel must serve the County Clerk pursuant to Code of Civil Procedure §1011(2), and mail a copy to the last known address of the client.

(b) Additional Duty When Matter Set for Trial. If a trial date has been set in the action, the declaration must set forth whether the client has been notified of the trial date and the manner of notification.

(c) Order Relieving Counsel. The order relieving counsel shall contain the address of the party in pro per. The attorney must serve copies of the order on the client and on

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the other parties to the action.

(d) Substitution of Attorneys. No substitution of attorney or substitution of party in pro per is valid unless the address and telephone number of the new attorney or party in pro per is included as part of the substitution.

(Effective July 1, 1994)

Rule 5.3. Law and Motion Hearings

In no event shall the total presentation, combining all parties' time, exceed fifteen (15) minutes. Hearings expected to exceed fifteen (15) minutes will be specially set. Hearings exceeding fifteen (15) minutes on the Law and Motion Calendar will be stopped and specially set.

(Effective July 1, 1994)

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CHAPTER 6. TRIAL COURT DELAY REDUCTION PROGRAM

Rule 6.1. Trial Court Delay Reduction Program

The rules hereinafter set forth are adopted pursuant to the Trial Court Delay Reduction Act (Government Code 968600, et seq. and Statutes 1988, Chapter 1200), and shall apply only to actions included in the Court's program. It is the policy of the Court, in accordance with the Trial Court Delay Reduction Act, to bring general civil actions to disposition by settlement, trial, or other means as quickly as possible, and within the Court's guidelines established herein and by statute. The Court, in administering the program, will employ techniques of calendar management necessary to achieve the goal of reducing delay in the disposition of civil actions. The Presiding Judge shall designate, in accordance with the law, one or more judges to conduct the program. The Court Executive Officer shall provide administrative assistance necessary to the successful operation of the program and obtainment of the program goals.

(Effective July 1, 1994)

Rule 6.2. Differentiated Case Management

Unless otherwise designated, all cases filed under the Delay Reduction Program are subject to a twelve (12) month disposition goal.

(Effective July 1, 1994)

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Rule 6.3. Filing and Service of Pleadings

At the time of filing the complaint herein, plaintiff shall cause to be issued a Notice of Inclusion in the Delay Reduction Program. The form of notice is available at the County Clerk's Office. (See Appendix 6.3) A copy of the notice shall be placed in the court file. Said notice shall be served with the complaint.

In order to reduce delay, the complaint shall be served within sixty (60) days of filing, if at all possible. No extensions of time for filing a responsive pleading shall be granted by plaintiff with the exception of one fifteen (15) day extension.

The parties shall, at the earliest opportunity, informally discuss discovery scheduling, and be prepared to discuss at the status conference, hereinafter described, all informal agreements reached regarding progress of the case and discovery.

(Effective July 1, 1994)

Rule 6.4. Mandatory Discovery

To facilitate discovery in actions claiming damages for personal injury (including emotional distress) and/or wrongful death, each plaintiff shall, at the time the complaint is filed, or within ten (10) days thereafter, file with the Court and promptly serve on all defendants, written answers to questions (interrogatories). Said answers shall be signed by the plaintiff under penalty of perjury, and shall contain information about the plaintiff, the incident giving rise to the action, damages flowing

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therefrom, and medical information. (See Appendix 6.4(a))

At the time an answer to the complaint is filed, or within ten (10) days thereafter, each defendant shall file with the Court and promptly serve on each plaintiff written answers to questions (interrogatories). Said answers shall be signed by the defendant under penalty of perjury, and shall contain information about the defendant, the incident giving rise to the action, and any defenses claimed. (See Appendix 6.4(b))

The questions (interrogatories) to be answered by each plaintiff and defendant are available from the Office of the Humboldt County Clerk. At the time plaintiff serves his or her answers on each defendant, the plaintiff shall also serve the questions (interrogatories) that are to be answered by the defendant.

If the answers are not supplied as required, the party failing to so supply the answers shall be prepared to show cause why sanctions should not be imposed at the case management conference. (See Rule 6.6.)

(Effective July 1, 1994)

Rule 6.5. Case Management Conferences and Report

(a) All parties or their counsel of record shall file with the Court, a Case Management Conference Report on a form provided by the Court. (See Appendix 6.5(a)) Such report shall be filed no earlier than twenty-one (21) days nor later

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than seven (7) days before the first case management conference.

(b) The plaintiff's Report shall set forth whether or not all defendants have been served and have filed answers, and the status of discovery, as well as any other information requested on the court form. All defendants shall complete a similar court form, (See Appendix 6.5(b)) and file the same. All parties shall exchange their completed court forms at least seven (7) days prior to the case management conference hereinafter set forth, and shall informally discuss the agenda of the case management conference prior to attendance.

(c) A case management conference shall be held before a judicial officer designated by the Presiding Judge approximately 125 days after the filing of the Complaint and Notice of Inclusion. All parties or their attorneys shall be present and be prepared to discuss all elements of the case inquired into on the Case Management Conference Report.

(d) At the time of the case management conference, the Court shall be empowered to establish discovery schedules, set an additional status conference, set the matter for mediation, arbitration and/or trial, or otherwise actively manage the progress of the litigation.

(Effective July 1, 1994)

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Rule 6.6. Failure to Comply with Rules

Any failure to comply with Local Rules, or order of the Court, unless good cause is shown, is an unlawful interference with the proceedings of the Court. For any such failure, the Court may impose upon the offending party, attorney, or both, sanctions which may include, but not be limited to, monetary sanctions, attorney's fees, expenses, striking pleadings, entering the default of any party, dismissal of the action, and contempt.

(Effective July 1, 1994)

Rule 6.7. Setting for Trial

The Court may file an at-issue memorandum at the case management conference and set an action for mediation, arbitration and/or trial. (See appendix 6.7)

(Effective July 1, 1994)

Rule 6.8. Exemption of Uninsured/Underinsured Motorist Cases and Bankruptcy Cases from the Delay Reduction Program

Parties may seek such exemption from the Delay Reduction Program by filing with the Court a form declaration as provided in Appendix 6.8 "Declaration In Support of Exemption".

(Effective July 1, 1994)

Rule 6.9. Exemption of Complex Litigation from the Delay Reduction Program

At any time a case is at-issue, a party may file a motion with the supervising judge of the Delay Reduction Program to exempt the

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case from the program because of its complex nature. There shall be filed with said motion a declaration, under penalty of perjury, setting forth in detail the reasons such party believes the case cannot be brought to trial within two (2) years. Said declarations shall be signed by the attorney, if any, and the moving party, except for good cause shown by declaration of the attorney, setting forth facts establishing the unavailability of the moving party. The mere fact a party resides out of county will not, standing alone, constitute good cause.

(Effective July 1, 1994)

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CHAPTER 7. PROBATE RULES

Rule 7.1 Additional Requirements

A copy of the petition shall be served with each notice of hearing when served on a person requesting special notice or where the petition is the accounting of a testamentary trustee. Where the fiduciary or attorney is requesting fees or commissions other than those computed by Probate Code §§10800-10810, the notice of hearing and a copy of the petition shall be served on all parties.

The proof of service shall show service of the copy of the petition as well as the notice of the hearing.

(Effective July 1, 1994)

Rule 7.2 Copies of Handwritten Wills and Codicils; Translation of Foreign Wills

A typewritten copy of the will or codicil shall accompany the petition for probate if the document is handwritten. If the document is in a foreign language, it shall be accompanied by a translation signed by the translator together with an affidavit or declaration under penalty of perjury showing the qualifications of the translator.

(Effective July 1, 1994)

Rule 7.3 Time for Submitting Papers and Orders

All papers relating to a previously set probate hearing, including the proposed order prepared by the moving party, shall be

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filed or lodged with the County Clerk at least five (5) court days before the date of the hearing.

(Effective July 1, 1994)

Rule 7.4 Uncontested Matters

Appearance of Counsel. Except as otherwise provided by law, all verified petitions in probate matters shall be deemed submitted without an appearance except, that the petitioner or the petitioner's attorney shall appear on a petition for confirmation of sale of (1) real property, or (2) personal property valued in excess of \$1000.00. The petitioner or the petitioner's attorney shall appear on all petitions for appointment of a guardian or conservator, unless waived by the court. As used in this rule, "verified" means verified by the petitioner. Before denying any petition where there is no appearance under this rule, the court will continue the matter one week or until the next succeeding calendar, whichever is later, to give the petitioner or petitioner's attorney an opportunity to appear. If there is no appearance or other response by the petitioner or petitioner's attorney at the continued hearing, the court may drop the matter from the calendar.

(Effective July 1, 1994)

Rule 7.5 Fees and Commissions; Pursuant to Statute

(a) Payment of any commission or fees in trusts, guardianships or conservatorships in advance of a court order

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is not authorized, nor is payment of extraordinary fees and commissions in decedents' estates.

(b) Any allowance on account of ordinary fees or commissions shall not exceed 70% of the statutory fees or commissions. No allowance on account of extraordinary fees or commissions shall be made except for good cause shown.

(c) A petition for compensation for additional services rendered in a probate or other proceeding shall include:

(1) an itemized statement of the services rendered or to be rendered by the attorney, personal representative, trustee or other fiduciary, including the time to perform each of said services,

(2) the sum requested for each item of service, together with the total amount requested for such services (and not merely "reasonable fees"), and

(3) a reference in the caption and prayer to the additional fees.

No appearance by the attorney or the parties will normally be required where such petition is verified by the party. In determining such fees, the Court shall consider the difficulty of the tasks performed, the reasonable value of time expended, the amount of the estate accounted for, and whether an accounting is waived.

(Effective July 1, 1994)

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CHAPTER 8. JUVENILE COURT

Rule 8.1. Preliminary Provisions

(a) These rules, together with the rules promulgated by the Judicial Council for the Juvenile Courts, the Welfare and Institutions Code, those sections of other codes specifically made applicable to juvenile proceedings by the Welfare and Institutions Code, and case law shall be the controlling body of law which shall govern proceedings in the Humboldt County Juvenile Court.

(b) (1) Insofar as these rules are substantially the same as existing statutory provisions relating to the same subject matter, they shall be construed as restatements thereof;

(2) Insofar as these rules may add to existing statutory provisions relating to the same subject matter, they shall be construed so as to implement the purposes of the Juvenile Court law.

(c) To the extent that these rules may affect or declare substantive rights, these rules are intended to be reflective of existing constitutional, statutory, case law, and Judicial Council Rules of Court and are to be interpreted consistent with such law.

(d) These rules are intended to be applied in a fair and

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equitable manner consistent with the best interest of the children appearing before the Juvenile Court.

(e) Severability Clause: If a rule or subdivision thereof in this division is invalid, all valid parts that are severable from the invalid part remain in effect.

(f) These rules shall be prospective in application only.

(g) To the extent that any of these rules conflicts with either state statute or Rule of Court, the local rule is of no legal effect.

[References: CRC 1400 et.seq.]

(Effective July 1, 2002)

Rule 8.2. Definitions, Construction of Terms

(a) As used in these rules, unless the context or subject matter otherwise requires:

(1) "Child" means a person under the age of 18 years;

(2) "Clerk" means the clerk of the Juvenile Court;

(3) "Court" means the Juvenile Court, and includes any judge, commissioner, or referee of the Juvenile Court;

(4) "Father" means an alleged, mere biological, Kelsey, adjudicated, declared or presumed father, defined as:

(i) AAlleged father≡ is a man who may be the father of the child, but whose biological paternity has not been established or, in the alternative, has not achieved presumed father status.

(ii) AMere Biological Father≡ is a man whose

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biological paternity has been established, has not achieved presumed father status

(iii) AKelsey Father≡ is an unmarried biological father who promptly attempts to assume his parental responsibilities as fully as the mother will allow and his circumstances permit, but has been unable to establish presumed father status.

(iv) AAdjudicated Father≡ means a court of competent jurisdiction has entered an order or judgment that the man is the child's father

(v) ADeclared Father≡ is a man who has executed a voluntary declaration of paternity pursuant to Family Code section 7570 et.seq.

(vi) APresumed Father≡ is a man who meets the Family Code presumptions of paternity.

(5) "Foster Parent" means any adult with whom a child is placed by court order, or on an emergency basis, by Child Welfare Services or a law enforcement agency. This definition includes relatives;

(6) "Guardian" means legal guardian of the child;

(7) "Notify" means to inform either orally or in writing;

(8) "Petitioner" (in dependency proceedings) means the Humboldt County Child Welfare Services or its employees.

"Petitioner" (in wardship proceedings) means the Humboldt

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County District Attorney's Office or its employees or the Humboldt County Probation Department or its employees;

(9) "De Facto Parent" means a person who has been found by the court to have assumed, on a day-to-day basis, the role of parent, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period;

(10) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, step-siblings, and all relatives whose status is preceded by the words Agreat=, great-great≡ or Agrand≡ or the spouse of any of those persons, even if the marriage is terminated by death or dissolution.

(b) Construction of Terms

(1) "Shall" is mandatory and "may" is permissive.

(2) The past, present, and future tense shall each include the others.

(3) The singular and plural number shall each include the other.

(4) The feminine, masculine, and neuter genders shall each include the others.

[References: In re Margarita D. (1999) 72 Cal.App.4th 1288; In re Zacharia D. (1993) 6 Cal.4th 435 n.15; Adoption of Kelsey S. (1992)

1 Cal.4th 816; W&I §§ 11, 12, 13, 15, 101, 319; CRC 1401;

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F.C. §§ 7636, 7570 et.seq., 7611, 7540, and 7576]

(Effective July 1, 2002)

Rule 8.3. Nature of Hearings

(a) The daily juvenile calendar is held as determined by the Presiding Juvenile Judge. It consists of all juvenile matters except contested hearings. Matters on the daily calendar include, but are not limited to arraignments, detention hearings, responses, dispositions, service agreements, reviews, 366.26 hearings, and motions. Matters on the daily calendar which are anticipated to take longer than ten (10) minutes shall be set on the contested calendar.

(b) A contested hearing is a court trial where testimonial and documentary evidence may be submitted. Any party requesting a contested hearing shall state which issues are being contested and shall provide the court with a time estimate of the contested hearing.

(c) A pretrial conference is a formal discussion, on the record, among the attorneys and the judge to discuss and attempt to settle issues for an upcoming contested hearing. It shall be held as determined by the Presiding Juvenile Judge. All attorneys of record shall file a pretrial statement at least three (3) calendar days prior to the pretrial conference. The attorneys' pretrial statement shall include but not be limited to case settlement, issues to be litigated, witness lists, and length of hearing.

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(d) The party presenting evidence may utilize an offer of proof with regard to the testimony of any witness who is available for cross-examination. Other parties shall have an opportunity to cross-examine the witness after any offer of proof is made.

[References: W&I § 350]

(Effective July 1, 2002)

Rule 8.4. Standing, Rights and Levels of Participation in Dependency Cases

Unless otherwise expressly granted by constitutional, statutory, case law, or by rule of court, the standing, rights and levels of participation of the following persons in dependency cases shall be limited to those provided in this rule.

(a) Parents and/or guardian:

The parents, guardians or persons having legal custody of a child who is the subject of a dependency action shall have standing as a party to the proceedings.

(b) De Facto parent:

(1) Upon a sufficient showing, the Court may recognize the child's present or previous caretakers as de facto parents and grant standing to participate as parties in the dispositional hearing and any hearing thereafter at which the status of the dependent child is at issue. The de facto parent may:

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- (i) Be present at the hearing;
- (ii) Be represented by retained counsel or, at the discretion of the Court, by appointed counsel;
- (iii) Present evidence.

(2) A de facto parent's participation shall include asserting his or her interest in the custody, companionship, and care of the child.

(3) De facto parent status shall only be granted by the Court upon a written motion. At the hearing, the Court shall consider the contents of the dependency file, any report filed by the social worker, or the court-appointed special advocate for the child, and any other relevant and admissible evidence presented by the parties. The Court may consider the declarations filed in support of or in opposition to such application if the declarants are made available for cross-examination. Before granting status as a de facto parent, the Court shall find, by a preponderance of the evidence, that the moving party meets the criteria set forth in these rules. A motion for de facto parent status shall not, in and of itself, constitute good cause for continuing any other hearing in the dependency action.

(c) Relative:

A relative does not have a right to appointed counsel. Participation in the court process for relatives is limited to

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the submission of a statement, either orally or in writing, regarding their interest in the child, any information they might have that relates to the child or the dependency action, and their recommendation regarding the child. The Court may not consider such unsworn statements as evidence, but may consider such statements as a basis for ordering further investigation. At the detention and disposition hearings, the home of a relative shall be given consideration for placement of the child, as afforded by Welfare and Institutions Code § 361.3.

(d) Foster Parent:

A foster parent of a child who is the subject of a dependency proceeding shall be entitled to notice of proceedings as otherwise provided by law and these rules, and to be present at such proceedings, unless the Court finds that such presence would be disruptive of the orderly court process, or would be inconsistent with the best interest of the child. A foster parent does not have the right to appointed counsel. Participation in the court process for such foster parents is limited to the submission of a statement, either orally or in writing, regarding their interest in the child, any information they might have that relates to the child or the dependency action, and their recommendation regarding the child. The Court may not consider such unsworn statements as evidence, but may consider

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such statements as a basis for ordering further investigation.

[References: W&I §§ 316, 316.2, 317, 346; CRC 1410, 1412]

(Effective July 1, 2002)

Rule 8.5. Confidentiality of Juvenile Dependency Proceedings

(a) Unless otherwise specified by statute, California Rules of Court, or by these Rules, all Juvenile Court dependency proceedings, and all documents connected with Juvenile Court dependency proceedings, are confidential. Details of courtroom proceedings and the identities of children shall not be disclosed to persons other than those having a direct and legitimate interest in the proceedings.

(b) Penal Code §1054.2 shall be applicable to attorneys who represent children in proceedings under Welfare and Institutions Code § 602.

[References: W&I §§ 300.2, 345, 10850]

(Effective July 1, 2002)

Rule 8.6. Discovery of Juvenile Records

(a) Except as indicated within this rule, in all cases in which a person or agency seeks access to Juvenile Court records, including records maintained by the Juvenile Court Clerk, the Probation Department or Child Welfare Services, the person or agency shall file a Petition for Disclosure (JV-570) with the Supervising Judge of the Dependency Court. The petition shall set forth with specificity the materials sought and the relevance of the materials to the underlying action.

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The Petition shall be supported by a declaration of counsel and if necessary a memorandum of points and authorities.

(b) In all cases in which a person or agency seeks records held by law enforcement, including police reports regarding children who are the subject of juvenile court proceedings, the person or agency shall file a request pursuant to the Police Report Request Form.

(c) The person or agency seeking the records shall give notice to all necessary parties (see, form JV-570).

(d) This section does not apply to those persons and agencies designated by W&I 9827(a).

[References: W&I 99 827, 10850; CRC 1423]

(Effective July 1, 2002)

Rule 8.7. Access to Probation Department and Department of Family and Children's Services Records by Court Designated Child Advocates

(a) For the purposes of implementing the Child Advocate Program, volunteers serving in the program are considered Court Personnel as that term is used in Welfare and Institutions Code 9827. They shall have access to Probation Department and Department of Family and Children's Services files and information contained therein needed to carry out their responsibilities as Court appointed advocates.

(b) Any release to the Probation Department or the Department of Family and Children's Services pursuant to this rule of information made confidential by Welfare and Institutions Code

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§10850 shall be considered a disclosure for purposes directly connected with the administration of public social services as that term is used in Welfare and Institutions Code § 10850.

(c) Except as contained in their Court reports and in their dealings with the parties in the particular case, the advocates are prohibited from releasing any information they gain from inspection of said files.

[References: W&I § 100; CRC 1424]

(Effective July 1, 2002)

Rule 8.8. Release of Records to Parties And Their Attorneys

(a) Any party or their attorney in any Welfare and Institutions Code §300 matter shall be given access to all records relating to the child which are held by the County Clerk. Said party or counsel shall also have the right to secure copies of such records.

The party or counsel shall be responsible for the cost of any copying, unless the party is indigent or the counsel is court appointed.

(b) The party, counsel or investigator shall fill out and present a Declaration regarding the request for records. A copy of the Declaration shall be filed in the Court File.

[References: W&I §§ 827, 828, 10850; CRC 1423]

(Effective July 1, 2002)

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Rule 8.9. Release of Court Reports to Court-Approved Mental Health Evaluators

Where the Court has ordered a mental health or psychological evaluation of a child, the Court-approved evaluator shall be given a copy of relevant Court reports relating to the child, unless the Court makes a specific order to the contrary in the referral.

[References: CRC 1412(a), 1423]

(Effective July 1, 2002)

Rule 8.10. Appearances and Daily Courtroom Practice

(a) Attorneys who handle Juvenile Court proceedings should realize that parents and children appearing in these matters are often confused and unfamiliar with the court process and need personal support and understanding as well as advocacy. Attorneys should view the child as the focus of court-related activities and develop a child-sensitive approach to their practice before this court.

(b) Attorneys with matters in Juvenile Court are to be punctual. A conflicting appearance in another court shall not constitute an excuse for tardiness or absence.

(c) Counsel may request a priority on the Court's calendar by advising the clerk of the case title and calendar number prior to the first calendar call. Counsel shall notify the other counsel and/or parties of said request. Counsel are expected to state to the Court the reason for the calendar priority.

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(d) Unless excused by the Court, each party and attorney shall attend each scheduled Juvenile Court hearing.

(e) After the court calls the case on the record, each attorney will state their name, the name of the party they represent, and whether or not their client is present.

[References: CRC 1410]

(Effective July 1, 2002)

Rule 8.11. Representation of Parties: Experience, Training and Education of Attorneys

(a) All court-appointed attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules.

(b) (1) Each court-appointed attorney appearing in a dependency matter before the Juvenile Court shall complete the following minimum training and educational requirements. The attorney shall have either:

(i) Participated in at least eight (8) hours of training or education in juvenile dependency law, which training shall have included information on the applicable case law and statutes, the Rules of Court, Judicial Council forms, motions, writs and mediation, child development, child abuse and neglect, family reunification and preservation, domestic violence and restraining orders, rights of de facto parents, reasonable efforts, or

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(ii) At least six (6) months of experience in dependency proceedings in which the attorney has had primary responsibility for representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

(2) Each court-appointed attorney who practices before the Juvenile Dependency Court shall complete within every three (3) year period at least eight (8) hours of continuing education related to dependency proceedings. Evidence of completion of the required number of hours of training or education shall be retained by the attorney and may include a copy of a certificate of attendance issued by a California MCLE provider or a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider. Attendance at Court sponsored or approved programs will also fulfill this requirement.

[References: W&IC §§ 218.5, 317, 317.5, 317.6; CRC 1438]

(Effective July 1, 2002)

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Rule 8.12. Representation of Parties: Standards of Representation

All attorneys appearing in dependency proceedings shall meet the following minimum standards of representation:

(a) The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the social worker's reports. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the court with respect to matters which are beyond the expertise of the attorney and/or the court; and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the court.

(b) The attorney shall determine the client's interests and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts is unknown, this shall include a comprehensive interview with the client.

(c) The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for a hearing

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and of the necessity for adhering to court mandated time limits.

(d) The attorney shall vigorously represent the client within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel and the court, to explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interests, and to comply with local rules and procedures as well as with statutorily mandated timelines.

[References: W&I §§ 317, 317.5, 317.6; CRC 1438]

(Effective July 1, 2002)

Rule 8.13. Representation of Parties: Complaints

(a) Any party to a juvenile proceeding may lodge a written complaint with the Court concerning the performance of his/her appointed attorney in a Juvenile Court proceeding as follows:

(1) Complaints or questions shall initially be referred to that attorney's supervisor within the agency, association or law firm appointed to represent the client.

(2) If the issue remains unresolved or if there is no designated agency, association or law firm, the party may submit a written complaint to the Court in which the matter is pending. The Court shall within ten (10) days conduct its own review of the complaint or question. That

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review may include a hearing in chambers. The Court may take any appropriate action required, including relieving counsel and appointing new counsel and/or holding a formal hearing on the matter.

(b) In the case of a complaint concerning the performance of an attorney appointed to represent a child, the complaint may be lodged by the child or on the child's behalf by the social worker, a caretaker, a relative, a foster parent, or a child advocate.

[References: W&I § 317.5; CRC 1438]

(Effective July 1, 2002)

Rule 8.14. Representation of Minors: Duties of Counsel for Children

Counsel for the child in a dependency proceeding is charged with representing the child's best interests. At all times the attorney shall give primary consideration to the safety and protection of the child. In order to accomplish this, it is essential that child's attorney develop and maintain a relationship with the child.

(a) A full-time attorney shall represent no more than 100 individual clients at a time, which includes clients at various stages of cases and clients who may be part of the same sibling group.

(b) The child's attorney shall have face to face contact with the child at the initial detention hearing if the child is brought to court, or if the child is not brought to court,

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then as soon as practical thereafter. If the child is less than four years of age, then the initial contact shall be with the child's caretaker. Thereafter, counsel shall maintain at least monthly telephone contact with the child who is four years or older and with the child's caretaker. Children who are age appropriate shall be provided with the attorney's telephone number and address and reminded of those during each telephone contact. The attorney will attempt to conduct interviews in an atmosphere where the child feels comfortable and privacy is insured. Irrespective of the child's age, the child's attorney should visit with the child at the child's home or placement, before each court hearing and when informed of emergencies or significant events impacting the child.

(c) At the initial interview, the attorney shall inform the child in language that the child can comprehend, of the nature of the proceedings, the role of a lawyer and the court, the child's rights, including the right to file a complaint against the attorney, and the right to file a section 388 petition.

(d) Children 10 years of age and older have a right to receive copies of petitions and reports. However, counsel for the child shall determine if it is in the child's best interest to receive such copies, or, in the alternative, whether a discussion summarizing the contents of the petition, report, or case plan would be in the child's best interest.

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(e) When an attorney is appointed to represent more than one child within a family unit, then each child is to be interviewed and contacted separately. The children's attorney has an ongoing obligation to consider whether there is a conflict in representing more than one child.

(f) The child's attorney shall participate actively in the detention hearing and shall explore with the child all appropriate placement resources in the event the child must be detained. Prevention of trauma to the child through needless separation from his family shall be a goal of the child's attorney where appropriate.

(g) The child's attorney is to conduct an investigation for the jurisdiction and disposition hearings, including interviewing witnesses and making recommendations to the court concerning the child's welfare. In addition, counsel shall investigate the interests of the child beyond the scope of the juvenile proceedings and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings per local rule.

(h) The child's attorney shall communicate to the court the child's wishes in addition to the attorney's view of the child's best interests. The attorney representing a child who is able to express his or her view must make the child's desires and the reasons behind them clear to the court.

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(i) The child's attorney shall investigate what services were offered to the family to maintain the child in the home or prevent removal of the child from the home or to reunify the child with the family.

(j) When placement is an issue, the attorney shall be aware of issues related to placement, including: the impact of removal and placement on the child; the importance of placing siblings together where appropriate; the appropriateness of the recommended placement; the efforts made to ensure a smooth, timely and appropriate transition to a new placement; the effect of the placement on visitation of parents, siblings and other relatives; the effect of placement on the service needs of the child; the transracial, transcultural and language aspects of placement.

(k) The child's attorney shall explore and argue for appropriate visitation orders between the child, parents, siblings, and other relatives or significant persons. When appropriate, the attorney shall seek an order allowing the child to have an after-court visit with siblings, relatives, and parents who have come to court.

(l) The child's attorney shall oppose any requests for continuances that are contrary to the child's interests.

(m) The child's attorney shall check on the timely implementation of orders for visitation, counseling, or other orders of the court, which pertain to the child.

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(n) The child's attorney shall determine prior to each hearing whether the child wishes to attend the hearing and convey that information to the court.

(o) The child's attorney will remain on the case for as long as the child is subject to the court's jurisdiction to insure continuity of representation, unless properly relieved by the court.

(p) The child's attorney shall review relevant records and reports such as school records, medication records, court ordered evaluations and therapeutic records as soon as possible and alert the court if interim orders need to be made in between scheduled hearings. The child's attorney shall advocate for the child's educational rights including the appointment of an educational surrogate, if necessary.

(q) If the child is required to testify, the child's attorney shall, whenever appropriate, request that the testimony be taken in chambers. Further, the attorney shall assist and attempt to protect the child in his or her role as a witness.

(r) The child's attorney shall attempt to identify a more permanent plan for a child who is in long term foster care. If the child is not living with relatives, counsel has an ongoing obligation to consider possible relative resources. Whenever a child has been removed from an individual foster home and placed in a therapeutic setting or group home, counsel for the child shall contact the former caretakers when

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appropriate to investigate replacement of the child or extended visits.

(s) An attorney for a child shall not take any position on a recommendation that a child be released to a parent or have more liberal visits with a parent without first consulting with the child no more than two weeks before the hearing date.

(t) If a child's attorney feels that a court's determination is contrary to the child's best interests, appropriate appellate review should be sought in a timely manner.

[References: W&I §§ 317, 317.5; CRC 1438]

(Effective July 1, 2002)

Rule 8.15. Representation of Minors: Access to Minors Petitioned Pursuant to Welfare and Institutions Section 300

No party, attorney, or advocate in a dependency proceeding shall interview the child about the events relating to the allegations in the petition(s) on file without permission of the child's attorney or Court order. This Rule does not apply to the investigating probation officer or investigating social worker prior to the establishment of jurisdiction.

[References: W&I § 317(e)]

(Effective July 1, 2002)

Rule 8.16. Presence of Child in Court

(a) All children are entitled to attend Court hearings. Every child four (4) years or older shall be told of his or her right to attend Court hearings by the supervising social

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worker or child's attorney.

(b) All children shall attend Court hearings unless excused for one of the listed reasons:

- (1) the child's attorney waives the child's appearance;
- (2) the child chooses not to attend;
- (3) the child is excused by the Court; or
- (4) the child is disabled, physically ill, or hospitalized.

(c) If the child is present, the judicial officer hearing the case may view and speak with the child.

[References: W&I §§ 317(e), 349; CRC 1410(b), 1412]

(Effective July 1, 2002)

Rule 8.17. Mental Health Evaluation of a Child

No party, attorney, or agency in a juvenile court proceeding shall cause the child to undergo a mental health examination or evaluation without court approval.

[References: W&I § 370]

(Effective July 1, 2002)

Rule 8.18. Hearing in Absence of Parents and Parties (Dependency)

The best interests of the child and the legislative intent require that juvenile dependency cases proceed in a timely manner. Accordingly, it is court policy that matters proceed as scheduled on the date set. The court shall advise parties who appear at proceedings that their failure to appear at a future hearing may result in the court proceeding in

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their absence on that date and that such proceedings may result in a ruling against them. Such an adverse ruling may include, but is not limited to:

(a) Jurisdictional findings that a child comes within the provisions of Welfare and Institutions Code §300;

(b) Dispositional orders requiring out-of-home placement of a child;

(c) Establishment of a plan for termination of parental rights, adoption, guardianship, or long-term foster care.

[References: W&I § 316.1; CRC 1412]

(Effective July 1, 2002)

Rule 8.19. Objection to the Sufficiency of the Petition (Demurrer)

(a) In any dependency proceeding the Court may entertain a pre-hearing challenge to the petition's sufficiency by a motion akin to a demurrer. Such a motion may be made in writing or orally, but must be made as early in the proceedings as possible.

(b) The Court may rule on the motion at the hearing at which it is made, or may continue the hearing on the motion to another date in order to receive points and authorities from counsel.

(c) If the Court sustains the motion, the Court may grant leave to amend the pleading in the petition upon any terms as may be just and shall fix the time within which the amendment or amended petition shall be filed within the statutory time

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for the hearing on jurisdiction.

[References: In re Fred J. (1979) 89 Cal.App.3d 168; CCP § 472(a)]

(Effective July 1, 2002)

Rule 8.20. Amended Petition

(a) The petition may be amended without leave of court, by filing the amended petition and serving a copy on all parties no later than the pretrial hearing, and thereafter by leave of court.

(b) By agreement of all parties or their counsel, petitions may be amended at any time before hearing.

(c) Except as otherwise provided by law, the Court shall not amend the petition over the objection of the petitioner.

[References: W&I § 343; CRC 1407(c)]

(Effective July 1, 2002)

Rule 8.21. Prehearing Discovery (Dependency)

(a) Prehearing discovery shall be conducted informally, except as provided by statute, claim of privilege or other good cause. The existence of all relevant material held by any party shall be disclosed in a timely fashion to all parties to the litigation or made available to the parties upon request. In contested proceedings, the social worker delivered service logs shall be made available to all counsel five (5) court days before the hearing unless otherwise ordered by the Court.

(b) Only after all informal means have been exhausted may a

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party move the Court for an order requiring disclosure. The motion shall identify with specificity the information sought, and state the efforts, which have been made to obtain the information through informal means, along with reasons supporting the relevance and materiality of such information.

No motion shall be accepted for filing or heard unless accompanied by a declaration by the moving party or their counsel setting forth the following:

- (1) That the request for discovery was made at least five (5) court days prior to the date of the filing of the motion;

- (2) The response, if any, to the request of the party or their counsel;

- (3) That the movant has met and conferred with the party to whom the request was directed or their counsel or the facts showing that movant attempted, in good faith, to meet and confer with such party or his/her counsel.

(c) Files released by the Department of Social Services pursuant to informal discovery, or after a formal motion to compel discovery has been brought, shall be subject to the following protective order unless said general order is modified by a judicial officer:

- (1) Use of records and information obtained from the Department of Social Services for use in the Juvenile Court proceeding is limited to that proceeding only.

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(2) Counsel for the parties may make such copies of the records and information obtained from the Department of Social Services as is necessary for the preparation and presentation of the case.

(3) Records and information received from the Department of Social Services in discovery proceedings are to be kept in a confidential manner and shall not be released, directly or indirectly, to members of the media or to other individuals not directly connected with the Juvenile Court proceeding.

(4) Said records and information may be reviewed by the parties, their counsel, and any investigator or expert witness retained by counsel to assist in the preparation of the case. Any such person reviewing the records or information shall be made familiar with the terms of this rule.

(d) Civil Discovery. In order to coordinate the logistics of any such discovery, there shall be no depositions, interrogatories, subpoenas of juvenile records, or other similar types of civil discovery without approval of a judge of the Juvenile Court upon noticed motion.

(e) In dependency proceedings social reports prepared by the probation officer or social worker must be available to all counsel as required by law. Such reports may be placed in designated court boxes or mailed to counsel.

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(f) In contested proceedings the social worker log notes shall be made available to all counsel five (5) court days before the hearing unless otherwise ordered by the Court.

(g) The name of any experts to be called by any party and copies of their reports shall be made available to all parties.

[References: In re Jose Z. (1970) 3 Cal.3d 797; W&I § 827; CRC 1420].

(Effective July 1, 2002)

Rule 8.22. Request for Transcripts

In any juvenile case a party requesting a reporter's transcript shall file a written request for an order with proof of service on all parties or their counsel. It is counsel's responsibility to serve the appropriate reporter with a copy of the signed order.

[References: W&I § 347; CRC 1411]

(Effective July 1, 2002)

Rule 8.23. Peremptory Challenge

Counsel are presumed to know that any juvenile matter shall be heard by the judicial officer regularly assigned to juvenile matters. Any peremptory challenge to the judicial officer regularly assigned to juvenile matters must be made in writing and shall be served on all parties, or their attorneys of record, no less than ten (10) calendar days prior to the trial or hearing. Any peremptory challenge to the regularly

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assigned judicial officer not made in accordance with this rule shall be denied as untimely. This rule shall have no application to a peremptory challenge of a judicial officer who is someone other than the judicial officer regularly assigned to juvenile matters. Code of Civil Procedure §170.6 shall apply in those cases.

[References: CCP § 170.6; W&I §§ 246, 247.5]

(Effective July 1, 2002)

Rule 8.24. Use of Social Worker's or Probation Officer's Reports at Contested Hearings in Juvenile Matters

At a jurisdictional or dispositional contested hearing, the Court shall receive into evidence any social worker's or probation officer's report. The receipt of the report into evidence shall be subject to the following requirements:

(a) The report must have been filed with the Court and served on the parties or their counsel as required by law unless otherwise ordered by the Court.

(b) The social worker or probation officer who prepared or supervised the preparation of the report must be available to testify at the contested hearing if counsel for the petitioner intends to offer the report into evidence.

(c) For purposes of the contested hearing only, the Court shall strike any portion of the report containing anonymous information.

(d) Not less than five (5) court days prior to the contested

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hearing, unless otherwise ordered by the Court, the social worker or the probation officer must, upon request, either provide the address and/or telephone number, if known, of any specific person whose statement is included in the report or make such person available for cross-examination at the contested hearing.

(e) If the social worker or probation officer, pursuant to subdivision (d), of this rule has provided the address of a witness to the parent, guardian, child or their counsel and such parent, guardian, child or counsel presents evidence of unsuccessful attempts and due diligence to subpoena such witness for the contested hearing and the Court finds that there has been due diligence, the Court may strike, for purposes of the contested hearing only, the statements of such witness from the report. In the alternative, the Court may grant a continuance for a period not to exceed ten (10) court days for the parties to attempt to subpoena or make such witness available for testimony at the contested hearing. The Court shall not grant more than one such continuance in any matter.

(f) For purposes of this rule, attachments and addenda to the social worker's or probation officer's report shall be considered part of their report and shall be received into evidence provided that such attachment and/or addenda are relevant to the contested issues, further provided that the

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social worker or probation officer has referred to portions of any attachment in the body of the report, the social worker or probation officer used the attachment as part of the basis of any conclusion or recommendation made in the report, and the requirements of subdivisions (a) through (f) of this rule have been met.

[References: W&I § 355; CRC 1440, 1450]

(Effective July 1, 2002)

Rule 8.25. Reports With Psychological Evaluations

If the social study report has an attached psychological evaluation, copies of the evaluation shall accompany only those reports going to counsel and the court. Counsel for each party shall determine if release to counsel's client is appropriate or, in the alternative, whether a discussion summarizing the evaluation would be in the party's best interest.

[References: W&I §§ 302, 317, 350, 362(a)]

(Effective July 1, 2002)

Rule 8.26. Requirements and Procedures for Motions other than Motions to Continue

(a) Moving party must serve the notice of motion and motion, points and authorities, and all supporting documents upon all other counsel in the case at least ten (10) calendar days before the date of the hearing if personally served, or fifteen (15) calendar days before the hearing if served by

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mail. Service in court boxes by noon shall be considered personal service.

(b) If opposing counsel plans to file points and authorities or any other documents in opposition to the motion, the documents must be filed with the court clerk and served no later than five (5) court days before the date set for hearing. Failure to file an objection shall result in the motion being determined without a hearing.

(c) All reply papers must be filed and personally served no later than two court days before the hearing.

(d) The notice of motion must include, under the title of the motion, the date and time of hearing, and the courtroom in which the motion shall be heard.

(e) The motion shall be submitted on the pleadings unless the Court, for good cause shown, or on its own motion, grants an argument or an evidentiary hearing.

(f) No noticed motion shall be accepted by the County Clerk unless it is accompanied by a proof of service.

[References: CCP § 1005; W&I §§ 348, 350(a); CRC 1412, 1419]

(Effective July 1, 2002)

Rule 8.27. Ex Parte Applications and Orders

(a) Ex parte orders are rendered without giving the opposing party an opportunity to be heard. Before submitting ex parte orders to a judge or commissioner for approval, the applicant must give notice to all counsel, social workers, and parents

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who are not represented by counsel or explain the reason notice has not been given.

(b) The party requesting ex parte orders must inform the judge or commissioner that notice has been given by completing a declaration of that fact. The original Declaration and accompanying Application for Order must be submitted to the courtroom clerk in the juvenile department where the pending action would normally be heard.

(c) Upon receipt of the application and declaration of notice, the courtroom clerk will note the date and time received in the upper right corner of the declaration. In order to give opposing parties ample time to respond to the ex parte application, the courtroom clerk will hold the application for twenty-four (24) hours prior to submission to the judicial officer for their decision.

(d) An opposing party must present any written opposition to a request for ex parte orders to the courtroom clerk within twenty-four (24) hours of receipt of notice. The Court may render its decision on the ex parte application or set the matter for hearing. The applicant is responsible for serving all noticed parties with copies of the Court's decision or notice that the Court has calendared the matter, and the applicant shall notify all parties of any hearing date and time set by the Court.

(e) Whenever possible, courtesy copies of the moving and

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responding papers and declaration re notice shall be served on the attorney for each parent, attorney for the child, county counsel, supervising social worker, de facto parent, tribe, and parents who are not represented by counsel.

(f) Notice may be excused if the giving of such notice would frustrate the purpose of the order or cause the child to suffer immediate and irreparable injury.

(g) Notice may also be excused if, following a good faith attempt, the giving of notice is not possible, or if the opposing parties do not object to the requested ex parte orders.

[References: W&I §§ 213.5, 350]

(Effective July 1, 2002)

Rule 8.28. Petitions for Modification of Orders: More Restrictive Placement (Dependency)

Any motion by petitioner to modify an existing order to a more restrictive placement shall be implemented pursuant to W & I section 387 and CRC 1430(c), 1431.

[References: W&I §§ 386, 387, 388; CRC 1430-1432]

(Effective July 1, 2002)

Rule 8.29. Petitions for Modification of Orders: Less Restrictive Placement (Dependency)

Any motion by an interested party to modify the Court's orders to a less restrictive placement shall follow the procedures outlined in Welfare and Institutions Code section 388 and CRC

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1430(d), 1432.

[References: W&I §§ 386, 387, 388; CRC 1430-1432]

(Effective July 1, 2002)

Rule 8.30. Petitions for Modification of Orders: Decrease in Visitation by Parent/Party (Dependency)

Any significant decrease from the Court-ordered level of a parent's/party's level of visitation shall be presented to the affected parent/party for comment before being submitted to the Court. The Court may set a hearing on the issue after hearing the parent/party's comments on the proposed reduction.

[References: (W&I §§ 386, 387, 388; CRC 1430-1432)]

(Effective July 1, 2002)

Rule 8.31. Petitions for Modification of Orders: Temporary Removal Out of State

Permission for a dependent child's caretaker to take the child out of State for any reason may be submitted directly to the Court for approval. Any attempts to notify the parents shall be indicated in the application.

[References: W&I §§ 386, 387, 388; CRC 1430-1432]

(Effective July 1, 2002)

Rule 8.32. Petitions for Modification of Orders: New Service Plan Requirements

Any significant changes or additions to the service plan for parents/guardians shall be submitted to them for approval before implementation. If the parent disagrees with the new

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requirements, the Department shall request a hearing with the Court on the matter.

[References: W&I § 16501.1]

(Effective July 1, 2002)

Rule 8.33. Notice re Change in Placement

In order to ensure that proper notice is received by attorneys for parents and children of any change in a child's placement after the original dispositional hearing:

(a) In non-emergency situations, the Department shall give notice at least five (5) working days prior to the change in placement.

(b) Prior to removal of a child from one county to another, the Department shall provide notice at least ten (10) working days unless emergency circumstances prevent such notice.

(c) In emergency circumstances the Department shall give notice immediately and in no case later than 48 hours (two working days) following the child's change in placement.

(d) Notice may be given in writing or orally and by telephone.

(e) The child's counsel shall be informed immediately of the reasons for the change in placement, and the address, phone number and name of caretaker of the child.

[References: W&I §§ 202, 308, 317, 326.5, 375, 399]

(Effective July 1, 2002)

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Rule 8.34. Appointment of Experts (Dependency)

(a) Where a party cannot afford to employ an expert, and an expert is necessary to enable counsel to properly represent the party, counsel may apply ex parte for the appointment of an expert for the purpose of (1) assisting counsel in case preparation, and/or (2) testifying at the jurisdiction, disposition, or other hearing.

(b) The application shall be made in writing and shall be heard in the department where the case is pending. If the application is granted, the moving party shall prepare an order for the judge's signature.

(c) No expert fee shall be paid by the court unless counsel has received prior approval.

(d) When a party decides to have an expert testify at any contested hearing, that party shall make available to all other parties, at least five (5) court days before date set for hearing, copies of the expert's report, if any.

[References: Evid.C. § 730 et.seq.]

(Effective July 1, 2002)

Rule 8.35. Procedures for Establishing Paternity

(a) The issue of paternity of a minor may be determined in the context of a Juvenile Court proceeding, if paternity has not otherwise been established.

(b) In any paternity proceeding arising under this rule, the Court shall inform the mother and the person claiming to be

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the father of their right to be represented by counsel on the issue of paternity. The Court shall advise the person claiming to be the father of his legal responsibilities should he be found to be the natural father of the minor, including the obligation to pay child support and the possibility he may be incarcerated if he willfully fails to pay child support after being legally ordered to do so. The Court shall also advise the person claiming to be father of his right to a trial and to have blood tests prior to any judicial determination of paternity.

(c) The alleged father's attorney shall file a Statement Regarding Paternity using Judicial Council form JV-505.

(d) The Court shall permit such evidence to be taken as necessary to determine the paternity of the child. Testimony from the mother and the person claiming to be the biological father may be sufficient to make a paternity finding. If the mother or the person claiming to be father is absent from the Court proceeding, evidence in addition to testimony from those in attendance will normally be necessary to enable the Court to make a paternity finding.

(e) The Court may order blood or other scientific tests if it believes such tests will assist in making a paternity finding.

The Court shall determine which party or parties shall pay for any such test.

(f) After the Court determines the paternity of a child, a

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JV-501 form shall be completed by the Court and the court clerk shall forward a copy to the local child support enforcement agency.

[References: [W&I § 316.2; CRC 1412(m)]]

(Effective July 1, 2002)

Rule 8.36. Determining the Mental Status of a Child

(a) Inquiry into the mental competence of a child who is the subject of a Welfare and Institutions Code §600 proceeding.

(1) If, during the pendency of an action, a doubt arises in the mind of the judge as to the mental competence of the child, the judge shall state that doubt on the record and inquire of the attorney for the child whether, in the opinion of the attorney, the child is mentally competent.

If the child is not represented by counsel, the court shall appoint counsel. At the request of the child or the child's counsel or upon its own motion, the court shall recess the proceedings for as long as may be reasonably necessary to permit counsel to confer with the child and to form an opinion as to the mental competence of the child at that point in time.

(2) If counsel informs the Court that counsel believes the child is or may be mentally incompetent, the Court shall order that the question of the child's mental competence is to be determined in a hearing. If counsel informs the Court that counsel believes the child is

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mentally competent, the Court may nevertheless order a hearing.

(3) When an order for a hearing into the present mental competence of the child has been issued, all proceedings shall be suspended until the questions of the present mental competence of the child has been determined. However, the Court may hear any matter, which is capable of fair determination without the personal participation of the child.

(b) Inquiry into the mental status of a child who is the subject of a Welfare and Institutions Code §300 proceeding:

(1) If the Juvenile Court, after finding that the child is a person described by Welfare and Institutions Code §300, is in doubt concerning the state of mental health or the mental condition of the child, the Court may continue the hearing and proceed pursuant to Welfare and Institutions Code §§6550 through 6552.

(2) Whether committed under Welfare and Institutions Code §§ 6550-6551 or Penal Code § 4011.6, the dependent may be detained up to an additional fourteen (14) days under either Welfare and Institutions Code §5250, or Welfare and Institutions Code §5260. The child is entitled to a probable cause hearing if held beyond the initial 72 hour period.

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(3) After either the 72 hours of observation and treatment or the fourteen (14) days of intensive treatment, the dependent may be detained up to an additional fourteen (14) days for further intensive treatment under Welfare and Institutions Code §5160, or up to an additional 180 days under Welfare and Institutions Code § 5300.

(4) A dependent child may be held temporarily in the locked psychiatric ward of Humboldt County Mental Health, or in any hospital whose services have been approved and/or contracted by the Department of Mental Health of the County, for observation and recommendation concerning the future care, supervision, and treatment of such person when the Court believes the dependent is mentally ill or when the Court is in doubt about the dependent's mental health. A hearing is required under due process and equal protection principles in order to safeguard the child's right to liberty. The dependent is not to be subjected to inappropriate treatment or treatment not allowed under the Lanterman-Petris-Short Act. Confinement of a dependent child for purposes other than temporary observation can be accomplished only by dismissal of dependency and referral for commencement of Lanterman-Petris-Short Act proceedings.

(5) A child who has been declared to be within the

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jurisdiction of the juvenile court, may with the advice of counsel, make voluntary application for in-patient or out-patient mental health services as outlined by Welfare and Institutions Code § 6552,

(6) Children fourteen (14) years of age and older.

(i) Any dependent of the juvenile court, aged fourteen (14) or older, who is gravely disabled as a result of a mental disorder shall not be placed against his/her will in a locked mental health facility absent the procedural protections of the L.P.S. Act and/or the Welfare and Institutions Code (See Welfare and Institutions Code § 702.3).

(ii) The Juvenile Court cannot place a gravely disabled dependent of the Court over the age of fourteen (14) in a locked facility involuntarily by appointing one of its own officers as the guardian of the child to consent to "voluntary" admission of the child under Welfare and Institutions Code § 6000(b); nor may the parent of the child consent to such a "voluntary" admission.

[References: W&I §§ 273, 319.1, 357, 702.3, 5585 et.seq., 6550 et.seq.; CRC 1498]

(Effective July 1, 2002)

Rule 8.37. Authorization for Use of Psychotropic Drugs

(a) Psychotropic medications may only be administered to a

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child pursuant to court order.

(b) The court may delegate to a parent or legal guardian the authority to consent to psychotropic medications for the child. The court will only delegate this authority to a parent or legal guardian by specific order after finding on the record that the parent poses no danger to the child and the parent has the capacity to authorize psychotropic medications in the child's best interest. The appropriate Judicial Council form shall be used to make a request to the court for delegation of this authority. Any opposition shall be made on the appropriate Judicial Council form and must be made within 2 court days of the notice of the application for order. The order for authorization is effective until terminated or modified by court order or until 180 days from the order, whichever is earlier.

(c) The court itself may authorize the administration of psychotropic Medications. Application for an order authorizing the administration of psychotropic medications shall be made on the appropriate Judicial Council form with information provided from a physician. Any opposition shall be made on the appropriate Judicial Council form and must be made within 2 court days of the notice of the application for order. The order for authorization is effective until terminated or modified by court order or until 180 days from the order, whichever is earlier.

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[References: W&I § 369.5; CRC 1432.5; Forms JV-220, JV-220A.]

(Effective July 1, 2002)

Rule 8.38. HIV/AIDS Testing Procedure for Dependent Children

(a) Confidentiality. Information regarding HIV test results and/or HIV/AIDS status is confidential and not to be revealed without authorization. Information concerning HIV test results and/or HIV/AIDS status is not to be disclosed orally, in correspondence or in social workers' reports.

(b) Motion for HIV Test. A party may file a motion requesting the Juvenile Court to order that a high-risk dependent child have an HIV test pursuant to Health and Safety Code §199.27.

(1) This motion shall be filed only when a parent/guardian, or child twelve (12) years of age or over does not consent to the test being performed.

(2) The motion shall be filed ex parte, without notice to other parties.

(3) The ex parte motion shall be sent to the Court in a sealed envelope addressed to the judge. The ex parte motion, the order, and any information released to the Court dealing with HIV/AIDS shall be kept in the court file in a sealed envelope and marked, "Confidential for Judge Only."

(4) The motion shall include an affidavit explaining why consent could not be obtained, describing the risk

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factors for the child, and identifying proposed recipients of the test results.

(5) The persons to whom the test results may be released shall include the assigned social worker, the child's attorney, and anyone else named in the order. The order for HIV testing and disclosure of test results shall be returned to the party who filed the motion in a sealed envelope marked confidential.

(6) If the test results need to be released to someone not identified in the order, another ex parte motion requesting a court order for further disclosure shall be filed.

[References: W&I §§ 317(e), 369, 1210]

(Effective July 1, 2002)

Rule 8.39. Guardianship Proceedings

A guardianship involving a child who is the subject of a delinquency or dependency proceeding shall be filed and heard in Juvenile Court. In all other aspects, such a guardianship proceeding shall be conducted according to the same procedure as are guardianships not involving delinquent or dependent children.

[References: W&I §§ 360, 366.26, 366.4; CRC 1456, 1465]

(Effective July 1, 2002)

Rule 8.40. Procedure by Which Any Person May Request that a Minor be Brought Under the Protection of the Juvenile Court

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(a) Applications pursuant to Welfare and Institutions Code §329 shall be directed to Child Welfare Services and not to the Probation Department.

(b) When Child Welfare Services fails to file a petition in response to a Welfare and Institutions Code §329 application, the procedure for applying to the Juvenile Court for an order that Child Welfare Services commence dependency proceedings shall be as follows:

(1) Where the child is already the subject of a delinquency, guardianship, or conservatorship proceeding, the application to the Court shall be filed as part of that proceeding.

(2) Where there is no case pending concerning the child, the application shall be directed to the judge of the Juvenile Court. The judge shall order the clerk to open a juvenile file in the matter and shall render a decision pursuant to Welfare and Institutions Code §331. Said decision may be reached with or without a hearing, at the Court's discretion.

[References: W&I §§ 329, 331; CRC 1406]

(Effective July 1, 2002)

Rule 8.41. Parents' Financial Responsibilities for Out-of-Home Care for Children

(a) The parents of a child who is subject to the jurisdiction of the Juvenile Court are liable for the reasonable costs of

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support of the child whenever the child is placed out of the home pursuant to an order of the Juvenile Court (Welfare and Institutions Code § 903).

(b) At the arraignment/detention hearing, Child Welfare Services shall attach an Income and Expense Declaration to the petition and include a recommendation that the court order the parents to complete the declaration, make an immediate appointment with the District Attorney/Family Support office, and proceed to that appointment taking with them the completed document, any tax returns, and any pay stubs that they may have.

(c) The services agreement prepared by Child Welfare Services shall specify the share of cost (if any) the parents are expected to pay for recommended services.

(d) The Office of Family Support shall utilize this service cost information as part of the dollar for dollar hardship deduction in determining the parents' financial responsibility.

[References: W&I §§ 332, 903 et.seq.]

(Effective July 1, 2002)

Rule 8.42. Child Advocate Program

(a) The Juvenile Court may appoint child advocates to represent the interests of dependent or delinquent children. Such appointments shall be made as early in the proceeding as possible. In order to qualify for appointment the child

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advocate must be trained by and function under the auspices of a Court Appointed Special Advocate program, formed and operating under the guidelines established by the California Judicial Council.

(b) The advocate program shall report regularly to the Presiding Judge of the Juvenile Court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for child advocates, in compliance with W.I.C. §§ 100-109 and C.R.C., rule 1424.

[References: W&I §§ 100-109, 356.5; CRC 1424.]

(Effective July 1, 2002)

Rule 8.43. Child Advocates

(a) Advocates serve at the pleasure of the Court, having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

- (1) to support the child throughout the Court proceedings;
- (2) to establish a relationship with the child to better understand his or her particular needs and desires;
- (3) to communicate the child's needs and desires to the Court in written reports and recommendations;
- (4) to identify and explore potential resources which will facilitate early family reunification or alternative

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permanency planning;

(5) to provide continuous attention to the child's situation to ensure that the Court's plans for the child are being implemented;

(6) to the fullest extent possible, to communicate and coordinate efforts with the case manager (probation officer/social worker);

(7) to the fullest extent possible, to communicate and coordinate efforts with the child's attorney; and

(8) to investigate the interests of the child in other judicial or administrative proceedings outside Juvenile Court; report to the Juvenile Court concerning same; and, with an order of the appropriate court, provide specific services as ordered on behalf of the child to such other courts or tribunals.

(b) An advocate is an officer of the Court and is bound by these rules. Each advocate shall be sworn in by a Superior Court Judicial Officer before beginning his/her duties, and shall subscribe to the written oath set forth in the CASA Handbook.

(c) The Court shall, in its initial order of appointment, and thereafter in subsequent orders as appropriate, specifically delineate the advocate's duties in each case, which may include independent investigation of the circumstances of the case, visiting and observing the child and other appropriate

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individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by Court order, the advocate shall discharge his/her obligation to the child and the Court in accordance with the general duties set forth in these rules.

(d) (1) A request for appointment of a child advocate in a dependency case may be made orally or in writing in open court or ex parte by the social worker, any party to the case or by the Court on its own motion. Unless there is opposition, the referral shall be forwarded to the child advocate program for screening and assignment.

(2) When an appropriate child advocate has been identified, that person's name shall be submitted to the Court for appointment. Copies of the order of appointment shall be served on all parties or their counsel. Prejurisdiction appointees shall follow the California CASA Early Assignment Protocol.

(3) The child advocate serves at the pleasure of the Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child advocate. The Court will determine whether there will be a hearing on such a motion.

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(4) Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the Child Advocate program. The Court will determine whether there shall be a hearing on such a petition.

(e) (1) A request for appointment of a child advocate in a delinquency case may be made orally or in writing in open court or ex parte by the probation officer or any party to the case, or by the Court on its own motion. If the Court grants the request, it shall order that the case be referred to Court Appointed Special Advocates (CASA) for screening. The order shall be transmitted to CASA by the Courtroom Clerk.

(2) When CASA receives a referral, it shall screen it, and if it determines that the child is suitable subject for the appointment of a child advocate and if there is a suitable child advocate available for appointment, CASA shall complete an application for the appointment of a designated child advocate and present the application ex parte to the referring Court which may then grant the application or set the matter for hearing. Copies of the order shall be served on all parties or their counsel.

(3) The child advocate serves at the pleasure of the

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Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child advocate. The Court will determine whether there will be a hearing on such a motion.

(4) Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the child advocate program. The Court will determine whether there shall be a hearing on such a petition.

(5) The child advocate shall work closely with the child's attorney to insure the child's rights are protected.

(6) In delinquency cases, the child advocate shall investigate the services the child needs to refrain from further delinquent conduct. The child advocate shall not investigate jurisdictional issues or issues surrounding potential probation violations. The child advocate is not to assume the duties of a probation officer and is not expected to act as a law enforcement officer.

(f) Reports

(1) In all dependency proceedings when the child has an advocate, CASA reports shall be submitted to the court

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for dispositional hearings; six, twelve, and eighteen month reviews; W.I.C. § 366.26 hearings and for each permanency planning review thereafter.

(2) At least two (2) court days before the hearing, the CASA Report shall be served on all parties or their attorneys. A proof of service shall be attached to each report.

[References: W&I §§ 100-109; CRC 1424]

(Effective July 1, 2002)

Rule 8.44. Child Advocates: Release of Information to Advocate

(a) The Judicial Officer making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the Court. Copies of the order shall be served on all parties or their counsel.

(b) An advocate shall have the same legal right to records relating to the child he/she is appointed to represent as any social worker or probation officer with regard to records pertaining to the child held by an agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement

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agency. The advocate shall present his or her identification as a Court-appointed advocate to any such record holder in support of his/her request for access to specific records.

(c) An advocate is a mandated child abuse reporter with respect to the case to which he/she is appointed.

(d) There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments maintained among the advocate, social worker or probation officer, child's attorney, attorneys for parents, relatives, foster parents and any therapist for the child.

[References: W&I § 103 et.seq.; CRC 1424]

(Effective July 1, 2002)

Rule 8.45. Child Advocates: Right to Timely Notice

In any motion concerning the child, the moving party shall provide the advocate timely notice.

[References: W&I § 106; CRC 1424]

(Effective July 1, 2002)

Rule 8.46. Child Advocates: Visitation Throughout Dependency

An advocate shall visit the child regularly until dependency is terminated.

[References: W&I § 104; CRC 1457]

(Effective July 1, 2002)

Rule 8.47. Child Advocates: Family Law Advocacy

Should the Juvenile Court dismiss dependency and create family law orders pursuant to W&I Code Section 362.4, the advocate's

HUMBOLDT COUNTY TRIAL COURT RULES

appointment may be continued in the family law proceeding, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate's family law duties in the family law custody orders.

[References: W&I § 362.4; CRC 1457]

(Effective July 1, 2002)

Rule 8.48. Guardians Ad Litem

(a) For Children

(1) All children who are the subject of Juvenile Court proceedings shall have a guardian ad litem appointed to represent them.

(2) In most cases the child's attorney or the child advocate shall be the guardian ad litem.

(3) In case of a conflict of interest, the Court may appoint a different adult as guardian ad litem for the child.

(b) For Parents

(1) The Court shall appoint a guardian ad litem to represent any incompetent parent or guardian whose child is before the Juvenile Court pursuant to a dependency petition.

(2) The determination of incompetency may be made by the Court at any time in the proceeding based upon evidence received from any interested party.

(c) Notice to Guardian ad Litem, Access to Records, Right to

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Appear:

- (1) In all proceedings the guardian ad litem shall be given the same notice as any party.
- (2) The guardian ad litem shall have the same access to all records relating to the case as would any party.
- (3) The guardian ad litem shall have the right to appear at all hearings.

[References: W&I § 326.5]

(Effective July 1, 2002)

Rule 8.49. Parental Visitation Before Detention Hearing

- (a) Any child taken into temporary custody shall have supervised visitation with one or both parents or guardians before the detention hearing takes place unless the social worker has a reasonable belief that the child or his or her temporary caretaker would be endangered.
- (b) Whenever a child is taken into temporary custody, the social worker shall inform the parent or guardian of the child's condition and his or her general location and offer supervised visitation pursuant to subparagraph (a) above.
- (c) Immediately after a child is taken into temporary custody the social worker shall ensure that the child has regular telephone contact with his or her parent pursuant to Welfare and Institutions Code §308, unless that contact would be detrimental to the child.
- (d) If the social worker fails to follow the procedures

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listed in subparagraph (a) above, he or she shall note the reasons therefore in the papers prepared for the detention hearing.

[References: W&I § 308; CRC 1442(g)]

(Effective July 1, 2002)

Rule 8.50. CAST Tapes/Protective Orders

(a) Definitions: "C.A.S.T." means the local multi-agency Child Abuse Services Team. "C.A.S.T. Tapes" means audio or video tapes of a child made by C.A.S.T.

(b) No C.A.S.T. audio or video tapes of a child shall be disseminated without a protective order. The protective order shall include that:

(i) All C.A.S.T. tapes provided to counsel may be viewed only by parties, their counsel, and counsels' employees, investigators and experts for the purpose of juvenile court proceedings;

(ii) The tapes, or the substance of any portion thereof, shall not be divulged by any person subject to the protective order to any other person, except as necessary for the purpose of juvenile court proceedings;

(iii) The parties may not make any additional copies of the tapes without prior court order;

(c) All C.A.S.T. tapes which are not in evidence with the court or booked as evidence and retained by law enforcement shall be returned to the Court or to counsel

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for Child Welfare Services for destruction upon final disposition of the case. If there is an appeal, the tapes will be retained by counsel still subject to the protective order.

(d) All parties receiving C.A.S.T. audio or video tapes shall sign a written Acknowledgment that the tape is subject to a protective order. An approved form for the Acknowledgment is attached and labeled "Local Form A" and incorporated herein by reference.

(e) The parties may stipulate that copies of C.A.S.T. tapes of a child be made available to the parties. An approved form of the stipulation is attached and labeled "Local Form B" and incorporated herein by reference.

[References: X]

(Effective July 1, 2002)

Rule 8.51. Dependency Mediation

(a) A dependency mediation session may be ordered by the court on its own accord, or may be ordered by the court upon request of any party, at any stage of the proceedings.

(b) When the court orders mediation, the courtroom clerk will provide the parties involved with the date, time and location where the mediation will take place. The clerk will also select the date and time for the parties to return from mediation and appear before the court.

(c) All parties are to prepare a Mediation Issue Statement,

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which is to be sent to the Dependency Mediation Coordinator and distributed to all other concerned parties, at least one week prior to mediation.

(d) At the designated time and place, all parties shall meet with the court-appointed mediator. It is not required that all attorneys attend, but their review and acceptance of any agreement reached will be required before reporting back to court.

(e) Children may participate in mediation, to an extent and manner within the discretion of the child's counsel.

(f) All mediation sessions are confidential. No new information generated during the mediation session can be used in subsequent court proceedings, unless the information is such that a mandatory reporter would be required to report.

(g) If an agreement is reached, it will be the responsibility of County Counsel to prepare the Agreement in final written form for submission to the court at the next court date. All parties or their counsel involved in the mediation must review and sign any Agreement prior to its submission to the court.

[References: W&I § 350]

(Effective July 1, 2002)

Rule 8.52. Mental Health Evaluation of a Parent

(a) No party, attorney, or agency in a juvenile court proceeding shall cause a parent to undergo a mental health examination or evaluation without court approval.

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(Effective July 1, 2002)

Rule 8.53. Inquiry into Child's Tribal Status

Unless affirmatively noted in the Petition or Detention report, at Arraignment or the earliest time thereafter, the Court shall inquire of the parents and, when appropriate, the child, if the child and/or parent(s) are members of an Indian tribe or are eligible for membership in an Indian Tribe. This will be done for the purpose of determining whether the Indian Child Welfare Act shall apply to the case.

[References: 25 USC §§ 1903, 1911, 1912; CRC 1439]

(Effective July 1, 2002)

Rule 8.54. Notice of Appeal/Notice of Intent to File Writ

Any counsel filing a notice of appeal or notice of intent to file writ shall serve a copy on all other parties or their counsel.

[References: W&I § 106; CRC 1424]

(Effective July 1, 2002)

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CHAPTER 9. FAMILY LAW

Rule 9.1 Ex Parte Orders

The Court will not, except upon a clear showing of compelling necessity made by affidavit or declaration, and after a showing of compliance with the notice requirements of Family Code §241, issue ex parte orders, except after evidence of four (4) hours prior notice to the other party that would

- (1) change custody of the children,
- (2) exclude a party from the home who is presently residing there, or
- (3) grant exclusive use or possession of an asset of the parties to one party.

In addition, the party seeking such an order must describe any previous orders that relate to the subject matter of the order being sought. Generally, ex parte orders regarding custody which are submitted which do not provide for reasonable visitation to the other parent will be denied.

(Effective July 1, 1994)

Rule 9.2 Required Papers - Service and Filing

- (a) Concurrent with service of the first order to show cause or notice of motion, the moving party shall serve on the other party the Family Law Policy Form (See Appendix 9.2), and a copy of any order together with all moving papers and one

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blank copy of the responsive declaration to the order to show cause or notice of motion and one blank copy of an income and expense declaration prescribed by the California Rules of Court.

(b) All the documents described above, including affidavits and declarations, shall be served at least fifteen (15) days prior to the hearing unless a longer period is provided by law, except for good cause shown. All responsive papers shall be served and filed by the responding party not later than five (5) days before the hearing, except for good cause shown.

(c) If responsive papers are filed, the moving party shall not be required to file a proof of service. If no responsive papers are filed, the moving party shall file proof of service no later than two (2) days before the hearing date, except for good cause shown.

(d) If no temporary orders are sought, and if the Court has jurisdiction over the party against whom relief is sought, noticed motions should be used rather than orders to show cause.

(Effective July 1, 1994)

Rule 9.3 Evidence at Hearings

A hearing on an order to show cause or notice of motion, other than a matter affecting custody, shall be based on declarations and affidavits without testimony or cross-examination, except for good

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cause shown. The Court may, in its discretion, allow oral argument.

Custody matters requiring testimony in excess of ten (10) minutes may be specially set.

(Effective July 1, 1994)

Rule 9.4 Releases and Use of Evidence at Hearings

Upon application of either party or upon its own motion, the court in its discretion may order both parties to sign and provide to the other release forms as set forth (See Appendix 9.4) relating to release of all data relating to financial issues, save and except for data relating to a financial issue in which one other than a party has an interest. Likewise, no releases relating to medical or mental health records will be routinely ordered.

(Effective July 1, 1994)

Rule 9.5 Proceedings Involving Custody

After filing for dissolution or separate maintenance, those parties with children will be required to attend the Children of Divorce Workshop designed to inform parents of the effects of divorce on their children. This program is mandatory and must be attended within four (4) months of filing.

(a) Both parties must attend. They may attend separate sessions if emotion does not allow attendance together.

(b) The parties, or counsel, must attempt to schedule attendance at the program before the first court appearance.

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(c) If there are minor children, no At-Issue Memorandum may be filed until proof of attendance at the Workshop is filed or the Court issues an order excusing attendance.

(d) Failure to comply with the time frames set forth may result in monetary sanctions.

(e) This form shall be served with the summons and petition/complaint. (See Appendix 9.5)

(f) All custody and visitation disputes must be submitted to mediation prior to leaving the Court. (See Appendix 9.5(a))

(g) The Court, on its own motion, or the motion of a party may require evaluations of child custody disputes pursuant to Family Code § 3110 et seq. (See Appendix 9.5(b))

(Effective July 1, 1994)

Rule 9.6 Required Papers in Proposed Joint Custody Agreements

If the parties are seeking joint custody of a minor child or children, they must file, no later than three (3) court days before the hearing, a proposed written agreement setting forth in detail their plans for implementation of the joint custody order.

(Effective July 1, 1994)

Rule 9.7 Temporary Spousal Support Schedule

(See Appendix 9.7) This schedule shall be used as a guideline for orders of temporary spousal support, unless there are unusual facts and circumstances. It shall not be used as a guideline for long term support at trial or thereafter. The schedule is based on

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total net monthly income (including all cash flow) after deduction of mandatory taxes, social security, medical insurance, union dues, and mandatory retirement contributions.

This schedule is based on the spouse having use of the family residence, making payments thereon, including utilities, insurance, taxes, or rent. Furniture and other debts will be taken into consideration, and may affect the schedule, as will total assets and liabilities, and marital living standard.

Good cause to deviate from the temporary spousal support guideline may exist if the child support obligations of the supporting spouse are an amount greater than 50% of the net monthly income of the supporting spouse.

(Effective July 1, 1994)

Rule 9.8 Family Support/Dependency Exemption

(a) In its discretion, the Court may order that support be paid as family support. Also, in its discretion, the Court may award the federal and state income tax dependency exemptions to either parent so as to maximize the total net income available for all family members.

(b) Payment for use of assets pending trial. While not obligated to do so, any party may raise by motion prior to trial, issues relating to the payment due to the community as and for the reasonable value of the use of a marital asset by a party between date of separation and date of disposition of

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said asset.

Comment: Since in some cases there may be interplay between liability for reasonable value of use of a community asset and the net incomes of both the payor and recipient of temporary support, it is sometimes appropriate that this issue be determined at the time that the court is asked to establish temporary child or spousal support or to make an interim award for attorney fees or expenses of litigation.

(Effective July 1, 1994)

Rule 9.9 Settlement Conferences

If either party requests a settlement conference, the Master Calendar Clerk shall schedule such a conference.

(a) Date. Settlement conferences will be scheduled approximately two (2) weeks prior to the date set for trial.

(b) Attendance. Parties and attorneys must attend at the time set. Attendance cannot be avoided by agreement of the parties. The fact that a party or attorney resides out of state is not an acceptable excuse for non-attendance.

(c) Time, Manner and Requirements of Mailing Documents. Each party shall file a settlement conference statement, the disclosure statement required by Family Code §2100, et seq., and the papers required by Rule 9.12 (except a judgment) with the County Clerk, and mail to the opposing counsel or party, at least five (5) calendar days prior to the settlement

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conference.

(d) Rules Applicable to Settlement Conference Statements. At the settlement conference the parties shall bring the following:

- (1) Copies of all real and personal property appraisals and pension plan evaluations.
- (2) Documentary evidence of relevant bank, credit union, savings account balances, and statements of balances of other liquid accounts, as of the date of separation and relevant dates thereafter.
- (3) Documentary evidence of promissory notes, deeds, and other documents of title or major debt, where at issue.
- (4) If the amount of earnings of a spouse is at issue, documentary evidence of such earnings.
- (5) A statement from the carrier of cash value of a whole life insurance policy or policies.
- (6) An itemization of all furniture, furnishings, appliances, utensils, and all other personal property, with the party's estimate of fair market value price after each item, must be included if the parties previously have not agreed to some reasonable division of these items. If this issue is not resolved at the settlement conference, it will be severed and referred to a referee.

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(7) Documentation of all debt payment as to which reimbursement is being claimed shall be brought to the settlement conference.

(e) Lack of Compliance with Rules. In the absence of compliance with these rules regarding settlement conferences or proper preparation, it is the policy of this court to award attorney fees, impose sanctions, vacate the trial date or continue the settlement conference to another date, or any other action as appropriate.

(Effective July 1, 1994)

Rule 9.10 Required Papers - Trial

(a) Unless the parties have made the filing required by Family Code §2100 within thirty (30) days prior to the trial date, then both parties shall serve and file, no later than five (5) days before the trial, a completed current income and expense declaration and a completed current property declaration in the form prescribed by California Rules of Court. In every case the parties shall file a statement of issues, contentions, and proposed disposition of the case in the form required. At the discretion of the Court, failure of both parties to file the documents required by this subdivision may result in the trial date being vacated and the matter being dropped from the civil active list. Failure of one party to file the documents shall constitute an admission

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of all facts set forth in the papers filed by the opponent pursuant to sub-section (b) below.

(b) Unless addressed in the filing required by Family Code §2100, the statement shall include a full and complete statement of the information required by Family Code §2100 et seq., and

(1) Tracing. If it is contended that a single asset is part community and part separate in nature, the statement shall describe the asset, its date of acquisition, its value, the dates and amount of payments toward the purchase of the asset or nature and extent of the transaction which resulted in its acquisition, and a statement of the contended segregation of the total value of the asset as to its community and separate property values;

(2) Support, Custody, and Visitation. The statement shall specify that party's contentions as to child custody, visitation, and the amount and duration of child and spousal support.

(3) Reimbursement Claims. Any reimbursement claims shall be itemized and explained.

Comment: The purpose of this rule is to insure that domestic relations cases are properly prepared and expeditiously tried, and to avoid using the trial itself as a discovery process. Counsel,

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with the authority of their clients to dispose of the issues, will be expected to meet and review the statements prior to the time set for trial in order that, to the fullest extent possible, issues can be determined by stipulation and those remaining for determination can be clearly defined. The parties are encouraged to exchange trial exhibits and to cooperate with each other and the clerk to have proposed exhibits marked prior to trial.

The court may order the parties to update these statements where a substantial time has elapsed between the filing of the statements and the trial date.

(Effective July 1, 1994)

Rule 9.11 Valuation Date for Assets Other Than Trial Date

(a) A party seeking a valuation date for community property other than the date of trial shall serve and file a notice of motion to be heard not later than thirty (30) calendar days before the trial date.

Comment: Thirty (30) days notice of motion for an alternative valuation date is required by Family Code §2552(b). Parties seeking an alternative valuation date should promptly file papers upon discovering the necessity for such request because trial date can be set as early as thirty (30) days after a request for trial date is received. A party seeking a valuation date for community property other than the date of trial is encouraged to file a motion not later than fifteen (15) days from the filing of an at

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issue memo by either party. So as to allow for proper settlement and trial preparation, valuation date issues should be determined as soon as possible.

(Effective July 1, 1994)

Rule 9.12 Required Papers in Default Action; Filing

If support is sought or you are requesting distribution of community assets, a completed Income and Expense Declaration and completed Property Declaration shall be filed concurrently with the Request to Enter Default. In addition, an original and one copy of a proposed judgment shall be lodged at least three (3) days prior to the hearing.

(Effective July 1, 1994)

Rule 9.13 Approval or Incorporation of Property Settlement Agreement

No property settlement agreement shall be approved by the Court or incorporated by reference in a judgment unless:

(a) The petition refers to the property settlement agreement or a separate stipulation signed and filed by the parties and their respective attorneys provides that the agreement may be presented for court approval and incorporation, or both parties and their attorneys have endorsed approval of the agreement on the form of the stipulation for judgment.

(b) The agreement is signed and acknowledged by the parties;
and

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(1) If both parties are represented by counsel, the agreement is signed by both attorneys, or

(2) If only one party is represented by counsel, the attorney for that party signs the agreement and the other party signs a statement in the agreement or a declaration or affidavit that they had been advised to consult an attorney regarding the agreement, but declined to do so; or

(3) If neither party is represented by counsel, any party not appearing at the hearing acknowledges in the agreement that he or she is aware of the right to consult an attorney; and

(4) In any case, the parties must acknowledge, in writing, that all disclosures required to be made to them have been made, and that they are satisfied that the agreement is fair and equitable.

(Effective July 1, 1994)

Rule 9.14 Stepparent Adoption

(a) If a petition for adoption is filed under Family Code 98802, or any successor statute, without first having had a petition and order under Family Code 97840, there shall be a special hearing entitled "necessity of consent" hearing.

(b) The clerk shall immediately notify the probation officer of the filing of the petition, and the probation officer shall

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report in the same manner as provided in Family Code §7851.

(c) A citation in the form provided by Family Code §7881 shall be issued on the filing of the petition, and shall be served on the persons and in the manner described in Family Code §7880 and Family Code §7881. The citation shall require the persons served to show cause, if any, why the minor shall not be found to be abandoned and the consent of the named parent to the adoption is unnecessary.

(d) The hearing date shall be on the regular Adoption Calendar, and the date selected shall be within sixty (60) calendar days of the filing of the petition.

(e) The proceeding under this rule is in addition to that required by Family Code §9000-9007.

Comment: It is preferred that Division 12 of the Family Code Part 4, §7800, et seq. rather than Division 13, Part II of the Family Code be used in an abandonment proceeding because of the specification of the notice procedures. However, when Division 13, Part II is used, the hearing on the necessity of consent is required as the probation officer cannot recommend favorably until there is consent or an order finding no necessity to consent.

(Effective July 1, 1994)

Rule 9.15 Adoption Where Natural Father Not Found

If it is claimed that an alleged natural father under Family

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Code 97666 cannot be found, or is unidentifiable, the petitioner shall file a petition under Family Code 97662, and the clerk shall set a hearing on the regular Adoption Calendar, to be scheduled within sixty (60) calendar days of the filing of the adoption petition, to determine whether notice to any alleged natural father may be dispensed with and if the father is unidentifiable. The petitioner shall appear and present evidence at the hearing.

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Appendix 2.1
SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT
COURTHOUSE EUREKA, CA 95501
AT ISSUE MEMORANDUM

Name, Address and Telephone No. of Attorney or Party Appearing without Attorney Attorney for	For Court Clerk Use Only
Plaintiff/Petitioner vs. Defendant/Respondent	
<input type="checkbox"/> AT-ISSUE MEMORANDUM <input type="checkbox"/> COUNTER AT-ISSUE	CASE NUMBER:

1. Nature of Case:

Personal Injury, Property Damage or Wrongful Death

☐ Motor Vehicle ☐ Other

☐ Domestic Relations/Family Law ☐ Eminent Domain

☐ Other: (Specify) _____

a. If Domestic Relations/Family Law and custody-visitation are an Issue,
has mediation been ordered? ☐ Yes ☐ No

2. Date of Prior At-Issue _____

3. Time Estimated for Trial

_____ Hours _____ Days

4. Jury Trial Requested

☐ Yes ☐ No

5. Complaint Date _____

6. Case entitled to preference ☐ No ☐ Yes Under Code Section _____

7. Does the amount in controversy exceed \$50,000 as to any Plaintiff? ☐ Yes ☐ No

8. Are the parties claiming an exemption from mandatory arbitration pursuant to Rule 1600.5, California Rules of Court?

☐ Yes ☐ No State exemption: _____

9. If you are counsel for plaintiff and you are not claiming exemption, do you elect to refer the matter to Arbitration?

☐ Yes ☐ No

10. If you are counsel for plaintiff and do not elect Arbitration, do you object to the matter being ordered to Arbitration?

☐ Yes ☐ No

Indicate party being represented: Plaintiff/Petitioner Attorney Firm Address Telephone No.	Defendant/Respondent Attorney Firm Address Telephone No.
Plaintiff/Petitioner Attorney Firm Address Telephone No.	Defendant/Respondent Attorney Firm Address Telephone No.

For additional parties, please attach a separate sheet. See reverse side for certificate of mailing.

MEMORANDUM THAT CIVIL CASE IS AT ISSUE

(Rule 206.207 California Rules of Court)

Appendix 2.1 (page 2)

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I hereby represent to the court that all essential parties have been served with process or have appeared herein and that this case is at issue as to all such parties; that no amended or supplemental complaint or cross-complaint or other affirmative pleading remains unanswered; that to my knowledge no other parties will be served with a summons prior to the time of trial, and I know of no further pleading to be filed. My parties are ready and they desire to have the case set for trial. All discovery will be completed at least thirty days prior to trial except as may be allowed by order of court for good cause shown or as may be had by stipulation of the parties or through voluntary exchange of information, as provided in Rule 222 of the California Rules of Court.

Dated _____ Attorneys for _____

Any party not in agreement with the information or estimates given in an-issue memorandum shall within ten days after service thereof serve and file a memorandum in his behalf.

(PROOF OF SERVICE BY MAIL - 1013a 2015.5 C.C.P.)

I am a citizen of the United States and a resident of the county of _____

I am over the age of eighteen years and not a party to the within above entitled action; my residence/business address is:

On _____, 19____, I served the within _____
on the _____ in said action, by placing a true copy thereof enclosed in a sealed envelope with
postage thereon fully prepaid, in the United States post office mail box at _____
address as follows:

DECLARATION;

I declare under penalty of perjury under the laws of the State of California that the foregoing, including any
attachment, is true and correct and that this declaration is executed on (date): _____
at (place): _____

(Type or print name)

(Signature of Declarant)

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APPENDIX 6.3

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

_____]	
]	NO.
_____]	
]	
vs.]	NOTICE OF INCLUSION IN
	]	DELAY REDUCTION PROGRAM
_____]	
]	
_____	]	NOTICE OF STATUS CONFERENCE

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that the above-entitled action has been included in the Delay Reduction Program of the County of Humboldt. Local Rules 6.1 through 6.9 will hereafter apply to this action. You are required to comply with the guidelines for program cases as set forth in the above referenced rules.

You are further advised that a STATUS CONFERENCE in the above action has been scheduled, per Rule 6.5 (c), for _____19__ at _____M. in Department #____ of the Humboldt Superior Court. CASE MANAGEMENT CONFERENCE REPORTS shall be filed with the court no earlier than 21 days and no later than 7 days before the status conference. All parties shall exchange their completed reports at least 7 days prior to the status conference.

DATED:

LINDSEY McWILLIAMS, CLERK

By _____, Deputy

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Appendix 6.4 (a)

PLAINTIFF/CROSS-COMPLAINANT
QUESTIONS (INTERROGATORIES) TO BE ANSWERED,
FILED, AND SERVED AT TIME COMPLAINT IS FILED
OR WITHIN 10 DAYS THEREAFTER

Instructions to the Answering Party

(a) An answer or other appropriate response must be given to each interrogatory.

(b) Each answer must be complete and straight-forward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

(c) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations.

(d) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

(e) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(f) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers:

"I declare under penalty of perjury under the laws of the State of California that the foregoing answers are true and correct.

_____(DATE)_____ (SIGNATURE)_____"

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Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

(b) **YOU OR ANYONE ACTING ON YOUR BEHALF** includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON** includes a natural persona, firm, association, organization, partnership, business, trust, corporation, or public entity.

(d) **DOCUMENT** means a writing, as defined in Evidence code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing, and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON** referred to in Code of Civil Procedure section 667.7(e)(3).

(f) **ADDRESS** means the street address, including the city, state, and zip code; include mailing address is different than street address.

Interrogatories

The following interrogatories have been approved by the Judicial Council under the Code of Civil Procedure §2033.5.

Identity of Persons Answering these Interrogatories

- 1.1 State the name, **ADDRESS**, telephone number, and relationship to you of each **PERSON** who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

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General Background Information - Individual

- 2.1 State:
- (a) your name;
 - (b) every name you have used in the past;
 - (c) the dates you used each name.
- 2.2 State the date and place of your birth.
- 2.3 At the time of the **INCIDENT**, did you have a driver's license? If so, state:
- (a) the state or other issuing entity;
 - (b) the license number and type;
 - (c) the date of issuance;
 - (d) all restrictions.
- 2.4 At the time of the **INCIDENT**, did you have any other permit or license for the operation of a motor vehicle? If so, state:
- (a) the state or other issuing party;
 - (b) the license number and type;
 - (c) the date of issuance;
 - (d) all restrictions.
- 2.5 State:
- (a) your present residence **ADDRESS**;
 - (b) your residence **ADDRESSES** for the last five years;
 - (c) the dates you lived at each **ADDRESS**.
- 2.6 State:
- (a) the name, **ADDRESS**, and telephone number of your present employer or place of self-employment;
 - (b) the name, **ADDRESSES**, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the **INCIDENT** until today.
- 2.7 State:
- (a) the name and **ADDRESS** of each school or other academic or vocational institution you have attended beginning with high school;
 - (b) the dates you attended;
 - (c) the highest grade level you have completed;
 - (d) the degrees received.
- 2.8 Have you ever been convicted of a felony? If so, for each conviction state:
- (a) the city and state where you were convicted;
 - (b) the date of conviction;

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- (c) the offense;
- (d) the court and case number.
- 2.9 Can you speak English with ease? If not, what language and dialect do you normally use?
- 2.10 Can you read and write English with ease? If not, what language and dialect do you normally use?
- 2.11 At the time of the **INCIDENT** were you acting as an agent or employee for any **PERSON**? If so, state:
 - (a) the name, **ADDRESS**, and telephone number of that **PERSON**;
 - (b) description of your duties.
- 2.12 At the time of the **INCIDENT** did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the **INCIDENT**? If so, for each person state:
 - (a) the name, **ADDRESS**, and telephone number;
 - (b) the nature of the disability or condition;
 - (c) the manner in which the disability or condition contributed to the occurrence of the **INCIDENT**.
- 2.13 Within 24 hours before the **INCIDENT** did you or any person involved in the **INCIDENT** use or take any of the following substances: alcoholic beverages, marijuana, or other drug or medication of any kind (prescription or not)? If so, for each person state:
 - (a) the name, **ADDRESS**, and telephone number;
 - (b) the nature of the description of each substance;
 - (c) the quantity of each substance used or taken;
 - (d) the date and time of day when each substance was used or taken;
 - (e) the **ADDRESS** where each substance was used or taken;
 - (f) the name, **ADDRESS**, and telephone number of each person who was present when each substance was used or taken;
 - (g) the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** that prescribed or furnished the substance and the condition for which it was prescribed or furnished.

Physical, Mental, or Emotional Injuries

- 3.1 Do you attribute any physical, mental, or emotional injuries to the **INCIDENT**? If your answer is "no," do not answer interrogatories 3.2 through 3.7.
- 3.2 Identify each injury you attribute to the **INCIDENT** and the

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area of the body affected.

- 3.3 Do you still have any complaints that you attribute to the **INCIDENT**? If so, for each complaint state:
- (a) description;
 - (b) whether the complaint is subsiding, remaining the same, or becoming worse;
 - (c) the frequency and duration.
- 3.4 Did you receive any consultation or examination (except from expert witnesses covered by Code of Civil Procedure Section 2034) or treatment from a **HEALTH CARE PROVIDER** for any injury you attribute to the **INCIDENT**? If so, for each **HEALTH CARE PROVIDER** state:
- (a) the name, **ADDRESS**, and telephone number;
 - (b) the type of consultation, examination, or treatment provided;
 - (c) the dates you received consultation, examination, or treatment;
 - (d) the charges to date.
- 3.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the **INCIDENT**? If so, for each medication state:
- (a) the name;
 - (b) the **PERSON** who prescribed or furnished it;
 - (c) the date prescribed or furnished;
 - (d) the dates you began and stopped taking it;
 - (e) the cost to date.
- 3.6 Are there any other medical services not previously listed (for example ambulance, nursing, prosthetics)? If so, for each service state:
- (a) the nature;
 - (b) the date;
 - (c) the cost;
 - (d) the name, **ADDRESS**, and telephone number or each provider.
- 3.7 Has any **HEALTH CARE PROVIDER** advised that you may require future or additional treatment for any injuries that you attribute to the **INCIDENT**? If so, for each injury state:
- (a) the name and **ADDRESS** of each **HEALTH CARE PROVIDER**;
 - (b) the complaints for which the treatment was advised;
 - (c) the nature, duration and estimated costs of the treatment.

Property Damage

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- 4.1 Do you attribute any loss of or damage to a vehicle or other property to the **INCIDENT**? If so, for each item of property:
- (a) describe the property;
 - (b) describe the nature and location of the damage to the property;
 - (c) state the amount of damage you are claiming for each item of property and how the amount was calculated;
 - (d) if the property was sold, state the name, **ADDRESS**, and telephone number of the seller, the date of sale, and the sale price.
- 4.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to the preceding interrogatory? If so, for each estimate or evaluation state:
- (a) the name, **ADDRESS**, and telephone number of the **PERSON** who prepared it and the date prepared;
 - (b) the name, **ADDRESS**, and telephone number of each person who has a copy;
 - (c) the amount of damage stated.
- 4.3 Has any item of property referred to in your answer to interrogatory 4.1 been repaired? If so, for each item state:
- (a) the date repaired;
 - (b) a description of the repair;
 - (c) the repair cost;
 - (d) the name, **ADDRESS**, and telephone number of the **PERSON** who repaired it;
 - (e) the name, **ADDRESS**, and telephone number of the **PERSON** who paid for the repair.

Loss of Income or Earning Capacity

- 5.1 Do you attribute any loss of income or earning capacity to the **INCIDENT**? If your answer is "no," do not answer interrogatories 5.2 through 5.8.
- 5.2 State:
- (a) the nature of your work;
 - (b) your job title at the time of the **INCIDENT**;
 - (c) the date your employment began.
- 5.3 State the last date before the **INCIDENT** that you worked for compensation.
- 5.4 State your monthly income at the time of the **INCIDENT** and how

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that amount was calculated.

- 5.5 State the date you returned to work at each place of employment following the **INCIDENT**.
- 5.6 State the dates you did not work and for which you lost income.
- 5.7 State the total income you have lost to date as a result of the **INCIDENT** and how the amount was calculated.
- 5.8 Will you lose income in the future as a result of the **INCIDENT**? If so, state:
 - (a) the facts upon which you base this contention;
 - (b) an estimate of the amount;
 - (c) an estimate of how long you will be unable to work;
 - (d) how the claim for future income is calculated.

Other Damages

- 6.1 Are there any other damages that you attribute to the **INCIDENT**? If so, state:
 - (a) the nature;
 - (b) the date it occurred;
 - (c) the amount;
 - (d) the name, **ADDRESS**, and telephone number of each **PERSON** to whom the obligation was incurred.
- 6.2 Do any **DOCUMENTS** support the existence or amount of any item of damages claimed in interrogatory 6.1? If so, state the name, **ADDRESS**, and telephone number of the **PERSON** who has the **DOCUMENT**.

Medical History

- 7.1 At any time before the **INCIDENT** did you have complaints or injuries that involved the same part of your body claimed to have been injured in the **INCIDENT**? If so, for each state:
 - (a) a description;
 - (b) the dates it began and ended;
 - (c) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** whom you consulted or who examined or treated you.
- 7.2 List all physical, mental, and emotional disabilities you had immediately before the **INCIDENT**. (You may omit mental or

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emotional disabilities unless you attribute any mental or emotional injury to the **INCIDENT**.)

- 7.3 At any time after the **INCIDENT**, did you sustain injuries of the kind for which you are now claiming damages. If so, for each incident state:
- (a) the date and place it occurred;
 - (b) the name, **ADDRESS**, and telephone number of any other **PERSON** involved;
 - (c) the nature of the injuries you sustained;
 - (d) the name, **ADDRESS**, and telephone number of each **HEALTH CARE PROVIDER** that you consulted or who examined or treated you;
 - (e) the nature of the treatment and its duration.

Other Claims and Previous Claims

- 8.1 Except for this action, in the last ten years have you filed an action or made a written claim or demand for compensation for your personal injuries: If so, for each, action, claim, or demand state:
- (a) the date, time, and place and location of the **INCIDENT** (closest street **ADDRESS**, and telephone number of each **PERSON** against whom the claim was made or action filed;
 - (b) the name, **ADDRESS**, and telephone number of each **PERSON** against whom the claim was made or action filed;
 - (c) the court, names of the parties, and case number or any action filed;
 - (d) the name, **ADDRESS**, and telephone number of any attorney representing you;
 - (e) whether the claim or action has been resolved or is pending.
- 8.2 In the last ten years have you made a written claim or demand for worker's compensation benefits? If so, for each claim or demand state:
- (a) the date, time, and place of the **INCIDENT** giving rise to the claim;
 - (b) the name, **ADDRESS**, and telephone number of your employer at the time of the injury;
 - (c) the name, **ADDRESS**, and telephone number of the worker's compensation insurer and the claim number;
 - (d) the period of time during which you received worker's compensation benefits;
 - (e) a description of the injury;

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- (f) the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** that provided services;
- (g) the case number at the Worker's Compensation Appeals Board.

Investigation - General

- 9.1 State the name, **ADDRESS**, and telephone number of each individual;
 - (a) who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
 - (b) who made any statement at the scene of the **INCIDENT**;
 - (c) who heard any statements made about the **INCIDENT** by any individual at the scene.
 - (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure Section 2034).
- 9.2 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any individual concerning the **INCIDENT**? If so, for each individual state:
 - (a) the name, **ADDRESS**, and telephone number of the individual interviewed;
 - (b) the date of the interview;
 - (c) the name, **ADDRESS**, and telephone number of the **PERSON** who conducted the interview.
- 9.3 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** obtained a written or recorded statement from any individual concerning the **INCIDENT**? If so, for each statement state:
 - (a) the name, **ADDRESS**, and telephone number of the individual from whom the statement was obtained;
 - (b) the name, **ADDRESS**, and telephone number of the individual who obtained the statement;
 - (c) the date the statement was obtained;
 - (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original statement or a copy.
- 9.4 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any photographs, films, or videotapes depicting any place, object, or individual concerning the **INCIDENT** or plaintiff's injuries? If so, state:
 - (a) the number of photographs or feet of film or videotape;
 - (b) the places, objects, or persons photographed, filmed, or videotaped;

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- (c) the date the photographs, films, or videotapes were taken;
 - (d) the name, **ADDRESS**, and telephone number of the individual taking the photographs, films, or videotapes.
 - (e) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy.
- 9.5 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by Code of Civil Procedure Section 2034) concerning the **INCIDENT**? If so, for each item state:
- (a) the type (i.e., diagram, reproduction, or model);
 - (b) the subject matter;
 - (c) the name, **ADDRESS**, and telephone number of each **PERSON** who has it.
- 9.6 Was a report made by any **PERSON** concerning the **INCIDENT**? If so, state:
- (a) the name, title, identification number, and employer of the **PERSON** who made the report;
 - (b) the date and type of report made;
 - (c) the name, **ADDRESS**, and telephone number of the **PERSON** for whom the report was made.
- 9.7 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of the **INCIDENT**? If so, for each inspection state:
- (a) the name, **ADDRESS**, and telephone number of the individual making the inspection (except for expert witnesses covered by Code of Civil Procedure Section 2034).
 - (b) the date of the inspection.

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Appendix 6.4(b)

DEFENDANT/CROSS-DEFENDANT
QUESTIONS (INTERROGATORIES) TO BE ANSWERED,
FILED, AND SERVED AT TIME ANSWER IS FILED
OR WITHIN 10 DAYS THEREAFTER

Instructions to the Answering Party

- (a) In superior court actions, an answer or other appropriate response must be given to each interrogatory.
- (b) Each answer must be complete and straight-forward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.
- (c) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations.
- (d) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.
- (e) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.
- (f) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers:

"I declare under penalty of perjury under the laws of the State of California that the foregoing answers are true and correct.

(DATE)

(SIGNATURE)

"

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Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

(b) **YOU OR ANYONE ACTING ON YOUR BEHALF** includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON** includes a natural person, firm, association, organization, partnership, business, trust, corporation, or any public entity.

(d) **DOCUMENT** means a writing, as defined in Evidence Code section 250, and includes the original or a copy of handwriting, typewriting, printing, photostating, photocopying, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON** referred to in Code of Civil Procedure section 667.7(e)(3).

(f) **ADDRESS** means the street address, including the city, state, and zip code.

Interrogatories

The following interrogatories have been approved by the Judicial Council under section 2033.5 of the Code of Civil Procedure.

Identity of Persons Answering these Interrogatories

- 1.1 State the name, **ADDRESS**, telephone number, and relationship to you of each **PERSON** who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

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General Background Information - Individual

- 2.1 State:
- (a) your name;
 - (b) every name you have used in the past;
 - (c) the dates you used each name.
- 2.2 State the date and place of your birth.
- 2.3 At the time of the **INCIDENT**, did you have a driver's license? If so, state:
- (a) the state or other issuing entity;
 - (b) the license number and type;
 - (c) the date of issuance;
 - (d) all restrictions.
- 2.4 At the time of the **INCIDENT**, did you have any other permit or license for the operation of a motor vehicle? If so, state:
- (a) the state or other issuing party;
 - (b) the license number and type;
 - (c) the date of issuance;
 - (d) all restrictions.
- 2.5 State:
- (a) your present residence **ADDRESS**;
 - (b) your residence **ADDRESSES** for the last five years;
 - (c) the dates you lived at each **ADDRESS**.
- 2.6 State:
- (a) the name, **ADDRESS**, and telephone number of your present employer or place of self-employment;
 - (b) the name, **ADDRESSES**, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the **INCIDENT** until today.
- 2.7 State:
- (a) the name and **ADDRESS** of each school or other academic or vocational institution you have attended beginning with high school;
 - (b) the dates you attended;
 - (c) the highest grade level you have completed;
 - (d) the degrees received.
- 2.8 Have you ever been convicted of a felony? If so, for each conviction state:
- (a) the city and state where you were convicted;
 - (b) the date of conviction;

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- (c) the offense;
- (d) the court and case number.
- 2.9 Can you speak English with ease? If not, what language and dialect do you normally use?
- 2.10 Can you read and write English with ease? If not, what language and dialect do you normally use?
- 2.11 At the time of the **INCIDENT** were you acting as an agent or employee for any **PERSON**? If so, state:
 - (a) the name, **ADDRESS**, and telephone number of that **PERSON**;
 - (b) description of your duties.
- 2.12 At the time of the **INCIDENT** did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the **INCIDENT**? If so, for each person state:
 - (a) the name, **ADDRESS**, and telephone number;
 - (b) the nature of the disability or condition;
 - (c) the manner in which the disability or condition contributed to the occurrence of the **INCIDENT**.
- 2.13 Within 24 hours before the **INCIDENT** did you or any person involved in the **INCIDENT** use or take any of the following substances: alcoholic beverages, marijuana, or other drug or medication of any kind (prescription or not)? If so, for each person state:
 - (a) the name, **ADDRESS**, and telephone number;
 - (b) the nature of the description of each substance;
 - (c) the quantity of each substance used or taken;
 - (d) the date and time of day when each substance was used or taken;
 - (e) the **ADDRESS** where each substance was used or taken;
 - (f) the name, **ADDRESS**, and telephone number of each person who was present when each substance was used or taken;
 - (g) the name, **ADDRESS**, and telephone number of any **HEALTH CARE PROVIDER** that prescribed or furnished the substance and the condition for which it was prescribed or furnished.

General Background Information - Business Entity

- 3.1 Are you a corporation? If so, state:
 - (a) the name stated in the current articles of incorporation;
 - (b) all other business names used by the corporation during the past ten years;
 - (c) the date and place of incorporation;

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- (d) the **ADDRESS** of the principal place of business;
 - (e) whether you are qualified to do business in California.
- 3.2 Are you a partnership? If so, state:
- (a) the current partnership name;
 - (b) all other names used by the partnership during the past ten years and dates each was used;
 - (c) whether you are a limited partnership and, if so, under the laws of what jurisdiction;
 - (d) the name and **ADDRESS** of each general partner;
 - (e) the **ADDRESS** of the principal place of business.
- 3.3 Are you a joint venture, If so, state:
- (a) the current joint venture name;
 - (b) all other names used by the joint venture during the past ten years and the dates each was used;
 - (c) the name and **ADDRESS** of each joint venturer;
 - (d) the **ADDRESS** of the principal place of business.
- 3.4 Are you an unincorporated association? If so, state:
- (a) the current unincorporated association name;
 - (b) all other names used by the unincorporated association during the past ten years and the dates each was used;
 - (c) the **ADDRESS** of the principal place of business.
- 3.5 Have you done business under a fictitious name during the past ten years? If so, for each fictitious name state:
- (a) the name;
 - (b) the dates each was used;
 - (c) the state and county of each fictitious name filing;
 - (d) the **ADDRESS** of the principal place of business.

Insurance

- 4.1 At the time of the **INCIDENT**, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro-rata, or excess liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen out the **INCIDENT**? If so, for each policy state:
- (a) the kind of coverage;
 - (b) the name and **ADDRESS** of the insurance company;
 - (c) the name, **ADDRESS**, and telephone number of each named insured;
 - (d) the policy number;
 - (e) the limits of coverage for each type of coverage contained in the policy;

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- (f) whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company;
- (g) the name, **ADDRESS**, and telephone number of the custodian of the policy.

- 4.2 Are you self-insured under any statute for the damages, claims, or actions that have arisen out of the **INCIDENT**? If so, specify the statute.

Investigation - General

- 5.1 State the name, **ADDRESS**, and telephone number of each individual;
- (a) who witnessed the **INCIDENT** or the events occurring immediately before or after the **INCIDENT**;
 - (b) who made any statement at the scene of the **INCIDENT**;
 - (c) who heard any statements made about the **INCIDENT** by any individual at the scene.
 - (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure Section 2034).
- 5.2 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** interviewed any individual concerning the **INCIDENT**? If so, for each individual state:
- (a) the name, **ADDRESS**, and telephone number of the individual interviewed;
 - (b) the date of the interview;
 - (c) the name, **ADDRESS**, and telephone number of the **PERSON** who conducted the interview.
- 5.3 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** obtained a written or recorded statement from any individual concerning the **INCIDENT**? If so, for each statement state:
- (a) the name, **ADDRESS**, and telephone number of the individual from whom the statement was obtained;
 - (b) the name, **ADDRESS**, and telephone number of the individual who obtained the statement;
 - (c) the date the statement was obtained;
 - (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original statement or a copy.
- 5.4 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any photographs, films, or videotapes depicting any place, object, or individual concerning the **INCIDENT** or plaintiff's injuries?

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If so, state:

- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, **ADDRESS**, and telephone number of the individual taking the photographs, films, or videotapes.
- (e) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy.

- 5.5 Do **YOU OR ANYONE ACTING ON YOUR BEHALF** know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by Code of Civil Procedure Section 2034) concerning the **INCIDENT**? If so, for each item state:
- (a) the type (i.e., diagram, reproduction, or model);
 - (b) the subject matter;
 - (c) the name, **ADDRESS**, and telephone number of each **PERSON** who has it.
- 5.6 Was a report made by any **PERSON** concerning the **INCIDENT**? If so, state:
- (a) the name, title, identification number, and employer of the **PERSON** who made the report;
 - (b) the date and type of report made;
 - (c) the name, **ADDRESS**, and telephone number of the **PERSON** for whom the report was made.
- 5.7 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** inspected the scene of the **INCIDENT**? If so, for each inspection state:
- (a) the name, **ADDRESS**, and telephone number of the individual making the inspection (except for expert witnesses covered by Code of Civil Procedure Section 2034).
 - (b) the date of the inspection.

Investigation - Surveillance

- 6.1 Have **YOU OR ANYONE ACTING ON YOUR BEHALF** conducted surveillance on any individual involved in the **INCIDENT** or any party to this action? If so, for each surveillance state:
- (a) the name, **ADDRESS**, and telephone party of the individual or party;
 - (b) the time, date, and place of the surveillance;
 - (c) the name, **ADDRESS**, and telephone number of the individual who conducted the surveillance.

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- 6.2 Has a written report been prepared on the surveillance? If so, for each written report state:
- (a) the title;
 - (b) the date;
 - (c) the name, **ADDRESS**, and telephone number of the individual who prepared the report;
 - (d) the name, **ADDRESS**, and telephone number of each **PERSON** who has the original or a copy.

Defendant's Contentions - Personal Injury

- 7.1 Do you contend that any **PERSON**, other than you or plaintiff, contributed to the occurrence of the **INCIDENT** or the injuries or damages claimed by plaintiff? If so, for each **PERSON**:
- (a) state the name, **ADDRESS**, and telephone number of the **PERSON**;
 - (b) state all facts upon which you base your contention;
 - (c) state the name, **ADDRESSES**, and telephone numbers of all **PERSONS** who have knowledge of the facts;
 - (d) identify all **DOCUMENTS** and other tangible things that support your contention and state the name, **ADDRESS**, and telephone number of the **PERSON** who has each **DOCUMENT** or thing.

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APPENDIX 6.5(a)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

_____]	NO.
_____]	
Plaintiff(s)]	<input type="checkbox"/> PLAINTIFF'S
]	<input type="checkbox"/> CROSS-COMPLAINANT'S
vs.	]	CASE MANAGEMENT
	]	CONFERENCE REPORT
_____]	
_____	]	DATE: _____
Defendant(s).	]	TIME: _____
_____	]	DEPARTMENT: _____

The undersigned states that the plaintiff (cross- complainant) has diligently proceeded with this action as follows:

1. The following defendants (cross-defendants) have been served and have filed answers or their defaults have been taken:

<u>NAME</u>	<u>NAME</u>

2. The following defendants (cross-defendants) have been served and have not filed answers:

<u>NAME</u>	<u>DATE SERVED</u>	<u>WHY ANSWER NOT RECEIVED</u>
_____	_____	
_____	_____	
_____	_____	

3. The following defendants (cross-defendants) have not been served for the reason stated:

<u>NAME</u>	<u>REASON</u>	<u>DATE SERVICE EXPECTED</u>
_____	_____	
_____	_____	
_____	_____	

4. Plaintiff (cross-complainant) estimates that this case

HUMBOLDT COUNTY TRIAL COURT RULES

will be at issue on or before _____.

5. Plaintiff (cross-complainant) has served, with the complaint, answers to interrogatories as required by Local Rule 13.5. If not, please explain: _____

6. Discovery undertaken to date:

(a) Depositions: The following depositions have been taken to date: _____

The following depositions are scheduled on the dates indicated:

(b) Interrogatories: List all sets of interrogatories served and the date(s) answers to unanswered sets are due:

(c) Other discovery: List all other items of discovery you have undertaken to date. Include discovery in which no response has been received, and the dates such responses are due:

(d) If you have undertaken no discovery, explain why you have not done so: _____

7. Law and Motion.

(a) List all law and motion undertaken to date: _____

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8. Please state the following:

- (a) Date on which a final status conference may be held.
(b) Date you anticipate completion of discovery.

(c) Date you anticipate completion of law and motion and the type of law and motion you expect to conduct.

9. Do you believe that any issues should be bifurcated for trial? If so, please explain:

10. Do you believe the Court should establish a discovery schedule? If so, what do you believe is an appropriate schedule:

11. Do you believe this case should be excluded from the delay reduction Local Court Rules? If so, please explain:

12. Arbitration:

(a) Do you elect to arbitrate this matter pursuant to CCP Section 1141.11? Yes ____ No ____

(b) Is this case exempt from arbitration? If so, specify reason: _____

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13. Please list the type of case, whether personal injury, contract, real property, or other and briefly summarize facts:

I declare under penalty of perjury that the foregoing is true and correct, executed at _____, California, on this _____ day of _____, 19____.

Attorney for Plaintiff/Cross-Complainant

HUMBOLDT COUNTY TRIAL COURT RULES

APPENDIX 6.5(b)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

_____	]	NO.
_____]	
Plaintiff(s)	]	[ ] DEFENDANT'S
	]	[ ] CROSS-DEFENDANT'S
vs.	]	CASE MANAGEMENT
	]	CONFERENCE REPORT
_____]	
_____	]	DATE:
Defendant(s).	]	TIME:
_____	]	DEPARTMENT:

The undersigned states that the defendant (cross- defendant) has diligently proceeded with this action as follows:

1. The defendant (cross-defendant) has served and has filed an answer. Yes _____ No _____

2. The defendant has served and filed a responsive pleading other than the answer. Yes _____ No _____

If "yes," please state the nature of the response and the date of hearing. If heard, indicate the result:

3. If a responsive pleading has not been filed, set forth the reasons and when the responsive pleading will be filed and the nature of that pleading.

4. Defendant (cross-defendant) estimates that this case will be at issue on or before _____.

5. Defendant (cross-defendant) has served, with the answer,

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answers to interrogatories as required by Local Rule 13.5.

If not, please explain: _____

6. Discovery undertaken to date:

(a) Depositions: The following depositions have been taken to date: _____

The following depositions are scheduled on the dates indicated:

(b) Interrogatories: List all sets of interrogatories served and the date(s) answers to unanswered sets are due:

(c) Other discovery: List all other items of discovery you have undertaken to date. Include discovery in which no response has been received, and the dates such responses are due: _____

(d) If you have undertaken no discovery, explain why you have not done so: _____

7. Law and Motion.

(a) List all law and motion undertaken to date:

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8. Please state the following:

(a) Date on which a final status conference may be held.

(b) Date you anticipate completion of discovery.

(c) Date you anticipate completion of law and motion and the type of law and motion you expect to conduct.

9. Do you believe that any issues should be bifurcated for trial? If so, please explain:

10. Do you believe the Court should establish a discovery schedule? If so, what do you believe is an appropriate schedule:

11. Do you believe this case should be excluded from the delay reduction Local Court Rules? If so, please explain:

12. Arbitration:

(a) Do you elect to arbitrate this matter pursuant to CCP Section 1141.11? Yes ____ No ____

(b) Is this case exempt from arbitration? If so, specify reason:

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13. Please list the type of case, whether personal injury, contract, real property, or other and briefly summarize facts:

I declare under penalty of perjury that the foregoing is true and correct, executed at _____, California, on this _____ day of _____, 19____.

Attorney for Defendant/Cross-Defendant

6-b:rules-drforms (7/91)

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Appendix 6.7

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

AT-ISSUE MEMORANDUM (DELAY REDUCTION)		CASE NO.:
TITLE (in full)	(For Use of Court Clerk Only)	

SETTLEMENT CONFERENCE DATE _____

TRIAL DATE _____

TIME ESTIMATED FOR TRIAL: _____ DAYS

1. Nature of case:
[] Personal Injury, Property Damage, Motor Vehicle, Wrongful Death
[] Other
[] Eminent Domain

2. Jury trial requested
[] Yes [] No

By _____
[] Defendant [] Plaintiff [] Both

3. Arbitration: [] Yes [] No [] Ordered

4. Complaint date _____

5. Case entitled to preference
[] Yes [] No Under code section _____

AT-ISSUE MEMORANDUM (DELAY REDUCTION)

4-C:AT-ISSUE.DR(11/92)

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Appendix 6.8

Attorney or Party Without Attorney Name & Address): Telephone #:	
Attorney for (Name):	
SUPERIOR/MUNICIPAL COURT OF CALIFORNIA COUNTY OF HUMBOLDT 825 Fifth Street Eureka, CA 95501	
Plaintiff: Defendant:	
DECLARATION OF: IN SUPPORT OF EXEMPTION	CASE NO.

I, _____, declare: I am the Attorney/Plaintiff/Defendant for:
Plaintiff _____ Defendant _____ Cross-Complainant
_____ Cross-Defendant _____, herein. I am able to competently testify to the facts and information set forth
in this declaration.

The above captioned case is scheduled for a Status Conference on _____. This case should be
exempt from the Trial Delay Reduction Rules because:

- _____ a. It is an uninsured/underinsured motorist case.
_____ b. One or more of the defendants, specifically _____ is under Bankruptcy stay order from the Federal
Court. (Copy of Bankruptcy Order must be attached.)

Explain:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____, California.

Signature

ORDER

_____ The foregoing request for exemption is granted on the grounds that the interest of justice requires a modification of the routine
processes as prescribed by Trial Delay Reduction Rules.

_____ The Status Conference has been rescheduled to

Date

Time

_____ The foregoing request for exemption is denied. The Status Conference date remains as scheduled.

Date: _____

Judge of the Superior Court

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Appendix 8.10

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

JUVENILE DIVISION

CASE NO.

ADVISEMENT

Minor(s)

_____/

If you fail to appear at any future court date, the judge will make decisions without you being there. The judge may decide to rule against you. For example:

- A. The judge can take control of your child;
- B. The judge can take your child out of your home and decide where your child will live;
- C. The judge can decide the long-term plan for your child, including taking away your rights as a parent forever.

I have read and understood these warnings.

DATED: _____

PARENT/GUARDIAN

* * *

ATTORNEY'S STATEMENT

I am the attorney of record for _____,
parent/guardian of the minor in this case. I have gone over this form with my client. I have explained the potential consequences should he/she fail to appear at any future court date.

DATED: _____

Attorney for Parent/Guardian

(Effective July 1, 1994)

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Appendix 8.29.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF HUMBOLDT

APPLICATION AND ORDER REGARDING REMOVAL OF A MINOR
FROM A JUVENILE INSTITUTION BY LAW ENFORCEMENT PERSONNEL

CASE OR REPORT # _____

NAME OF MINOR _____ D.O.B. _____

LOCATION OF MINOR _____

NAME OF PARENT/GUARDIAN _____

ADDRESS _____

TELEPHONE NUMBER _____

ATTORNEY FOR MINOR _____

ADDRESS _____

TELEPHONE NUMBER _____

PROBATION OFFICER/SOCIAL WORKER _____

OFFICER/AGENCY REQUESTING REMOVAL OF MINOR _____

NATURE OF REQUEST (Why is minor's removal necessary?) _____

/s/ _____

I approve. _____

Signature of Parent/Guardian

I approve. _____

Signature of Minor

I approve. _____

Signature of Attorney for Minor

The Application is granted / denied. The following conditions must
be followed: _____

DATED: _____

JUDGE OF THE SUPERIOR COURT

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Appendix 9.2.

SUPERIOR COURT FAMILY LAW POLICY STATEMENT

A COPY OF THIS DOCUMENT SHALL BE SERVED
ON EACH PARTY BY THE MOVING PARTY

ALL TEMPORARY ORDERS WILL REMAIN IN EFFECT UNTIL TRIAL UNLESS
CHANGED BY THE COURT DUE TO CHANGED CIRCUMSTANCES

1. Restraining Orders. Restraining Orders forbidding the parties from molesting or harassing each other, and from transferring or disposing of community property, except for necessary living expenses, will usually be given upon request.

2. Attorney Fees. When either party lacks sufficient assets to pay the attorney, the court may order the other party to pay the reasonable attorney fees, or make other arrangements.

3. Residence Exclusion. The court may order the temporary exclusion of one party from the family dwelling when there is a showing that the party to be excluded has assaulted, or threatens to assault, the other party and that physical or emotional harm would result to the other party (or another person under the care, custody or control of the other party) unless the assaultive party is excluded.

4. Child and Spousal Support. Pending resolution and upon application, the Court may order child support and spousal support.

The court will consider all forms of income, including public assistance, and may consider ability to earn as well as actual earnings.

It is not unusual that the parties' needs exceed their combined incomes. The court is primarily concerned with the actual income of the parties and only secondarily with the living expenses.

5. Custody of Children.

(a) The custody of a child will be awarded according to the best interests of the child. The non-custodial parent will be granted reasonable visitation rights unless there is a showing of an emergency or unusual circumstances. Supervised visitation will be ordered only in cases of compelling necessity therefore that involve physical danger to the child or children.

(b) The court may refer a custody dispute to an appropriate agency for investigation and report. This referral may be at the expense of the parties. The court does not routinely refer all

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custody disputes for an investigation and report.

(c) If there is a dispute over custody or visitation the parties will be referred to mediation (See Appendix 9.2).

(d) In all cases in which there are minor children both parties must attend the Children of Divorce Workshop.

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Appendix 9.4

CONSENT TO RELEASE OF INFORMATION

To Whom it May Concern:

This is to inform you that at no expense to the undersigned, you are authorized to release to my spouse or to my spouse's attorney of record upon request, information which you may possess and which they might deem material as to the matters hereof specified

- ☐ Wage records
- ☐ Records relating to retirement, pension, or profit sharing benefits
- ☐ Records relating to insurance policies
- ☐ Records relating to health care benefits

This authorization is intended to extend to the right to observe, make excerpts from or make photocopies of, at their discretion, any records to which I would be entitled which otherwise would be considered confidential.

This authorization shall apply for a time period of one year from the date appearing hereon unless sooner revoked by my written notice to you to that effect.

Dated: _____

Signature

I am the spouse of the person whose signature appears immediately above. I am:

☐ Representing myself ☐ Represented by: _____

Please send the records designated above to the following address:

Dated: _____

Signature

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Appendix 9.5

ORDER

TO ALL PARENTS WITH MINOR CHILDREN WHO ARE FILING FOR DISSOLUTION

CHILDREN OF DIVORCE WORKSHOP		
<p style="text-align: center;">WHO</p> <p>Based on a successful seven year program from Wichita, Kansas, Humboldt County has mandated through local Court Rule 9.6 that, after filing for dissolution or separate maintenance, those parties with dependent children will be required to attend an educational program designed to inform parents of the effects of divorce on their children. This program is mandatory and must be attended within four (4) months of filing.</p> <ol style="list-style-type: none">1. Both parties must attend. They may attend separate sessions if emotion does not allow attendance together.2. The parties, or counsel, may schedule the program before the first court appearance.3. The court will order attendance at the program within 45 days of the first court appearance. (waiting until this time results in less time to comply)4. Failure to comply within the time frames set forth may result in monetary sanctions. <p>(Effective November 1, 1987)</p> <p>9MAIL THIS PART OF FORM WITH</p>	<p style="text-align: center;">WHY</p> <p>Divorce and long-term separation are now experienced by 45 out of every 100 children born yearly in the United States. In 1986, 643 minor children in Humboldt County experienced divorce in their families. According to research, these children are at increased risk for developing social, emotional and school problems following the divorce of their parents.</p> <p>The ability of the children to make an appropriate adjustment depends largely on minimizing ongoing parental conflict that specifically involves the child. Since divorce is the end of the parent's marriage, but not the child's family, one goal of the workshop is to help parents understand what types of new parental interactions will be most helpful to their child's healthy adjustment.</p> <p>The workshop will also present parenting issues that are likely to occur at the time of divorce, and suggest ways to deal with them.</p> <p>CHECK OR MONEY ORDER,9</p>	<p style="text-align: center;">WHAT</p> <p>The four-hour educational workshop presents material about the potential impact to divorce on children, and how negative effects can be minimized. The program has been designed to help divorcing parents understand the needs of their children before during and after divorce. These needs vary with the children's ages.</p> <p style="text-align: center;">WHERE</p> <p>Workshops will be held in the Board rooms of the Humboldt County Office of Education, 901 Myrtle Avenue, Eureka.</p> <p style="text-align: center;">FEES</p> <p>Workshop fee is \$25.00 per person. For those who qualified for a fee waiver when filing their divorce papers (or response papers), the workshop fee will also be waived.</p> <p>CHILD CARE WILL NOT BE PROVIDED. PLEASE DO NOT BRING CHILDREN TO THE WORKSHOP.</p>
<p style="text-align: center;">REGISTRATION</p> <p>NAME:</p> <p>ADDRESS:</p> <p>PHONE: HOME _____ WORK _____</p> <p>Please send \$25.00 Check or Money Order (OR copy of fee waiver) to: HUMBOLDT FAMILY SERVICE CENTER 2841 E Street Eureka, CA 95501</p> <p>DO NOT SEND CASH. Make check or money order payable to Humboldt Family Service Center</p>		<p style="text-align: center;">WHEN</p> <p>Do you prefer:</p> <p><input type="checkbox"/> Two weekday evenings (7:00-9:00 p.m.)</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> Saturday ! one day only (10:00 a.m. - 3:00 p.m. with lunch break)</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> Next available workshop</p> <p>!Do you prefer a separate workshop from your spouse? If so, spouse's name:</p>

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Appendix 9.5(a) HUMBOLDT COUNTY CHILD CUSTODY MEDIATION SERVICE

MANDATE

As of January 1981, the State Legislature has mandated that all child custody and visitation disputes be submitted to mediation prior to a hearing by the court (Family Code Section 3170).

PURPOSE

The purpose of this mediation is to reduce acrimony between the parties and attempt to strike an agreement which will assure the children close and continuing contact with both parents during and after the dissolution process.

COMPOSITION

The Humboldt County Child Custody Mediation Service consists of two mediators, one male and one female, who meet the qualifications specified in Section 1815 of the Family Code Procedure. One member is a Probation Officer and the other a licensed professional counselor.

REFERRALS

Referrals to the Mediation Service are made only by court order. As the case is called at the time of the Family Law Calendar, and the issue of custody and/or visitation has been raised, the court will order a referral to mediation. The clerk will present counsel/pro per parties with a "Worksheet" which is to be filled out and taken to the County Collector's office. The parties will be ordered to pay the current mediation fee or have a current fee waiver. ("Current" fee waiver is one which has been filed with the court within six months of the present court date.)

Mediation appointments are made only through the County Collector. The County Collector will call the Probation Department and confirm that the financial arrangements have been complied with in order to obtain the appointment date. If you do not have a copy of your current fee waiver, or you do not have a current fee waiver filed with the court, or you do not have financial resources available to pay the mediation fee, immediately return to the courtroom and advise the court.

The parties and/or counsel are to return immediately to the

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courtroom for a return court date. Usually the matter is continued to allow ample time for the mediator to meet with the parties.

The courtroom clerk or bailiff will give each party a Mediation Services brochure and a "Confidential Information Sheet" after obtaining the return court date. Each party will fill out a separate "Information Sheet" which is to be hand delivered or mailed to the Probation Department two (2) days prior to the appointment date.

This procedure must be completed the same morning as the court date. Failure to comply with this procedure will result in delays in a referral to mediation and additional returns to court at added expense.

Once an appointment has been set up with mediation services, counsel shall make sure their clients are aware of the date, time, and location of the meeting and the review date.

DOCUMENTS

Each parent shall be given a brochure describing child custody mediation services and specific directions regarding the necessity of bringing all children five years of age and over to mediation.

PROCEDURES

Mediation sessions are held at the Probation Department. Parents shall be instructed by their attorneys and the Custody Team to bring to the session all children five years of age and over who are subjects of these disputes. They are also instructed to provide for supervision of these children at the Probation Department while the parents are meeting with the mediator. The mediation sessions are from one to three hours in length.

Additional mediation sessions may be schedule at the discretion of the court. Further mediation sessions require a court order, and payment of the mediation fee must be made at the County Collector's office.

Attorneys are excluded from the sessions. Parents are interviewed together, and then each child is interviewed separately.

MEDIATION OF DOMESTIC VIOLENCE ISSUES

Pursuant to Family Code Section 3176, separate mediation may be requested by a parent alleging domestic violence. Separate

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mediation, if needed, should be requested at the time the mediation session is scheduled.

Where there is a temporary restraining order in effect, the victim of domestic violence is entitled to have a support person present during mediation. The support person may not act as an advocate or disrupt the mediation session. Such support person should be bound by the confidentiality of the mediation session (Family Code Section 3156).

CONFIDENTIALITY

All documents and information made available to the Mediation Service are confidential. No report or recommendation is made to the court when the parties fail to agree, nor is the mediator allowed to testify at a hearing. In the event that no agreement is reached, the court is notified only of that fact. (See attached "Mediation Report".)

The mediator may recommend to the court that counsel be appointed to represent the child or that the parties participate in counseling. The mediator may recommend that an investigation be conducted pursuant to Family Code Section 3110, or that other action be taken to assist the parties to effect a resolution of the controversy.

STIPULATED AGREEMENTS

Any agreement reached by the parties is submitted in the form of a "Stipulation as to Child Custody" for the court's order. (See attached.)

Temporary orders may be stipulated to. These matters shall be set on the court's calendar for review. Should the parties require additional mediation upon the return to court, the court shall refer the parties for such mediation.

PROFESSIONAL AFFILIATION

The Humboldt County Child Custody Mediation Service is a member of the Association of Family Conciliation Courts, and attends annual meetings and regional training sessions to further its skills and to communicate with other professionals involved in the implementation of mandatory mediation.

EFFECTIVENESS

The effectiveness of child custody mediation cannot be simply

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measured by numbers or percentages. Many couples who do not reach an agreement during the mediation process nevertheless stipulate to an agreement prior to a hearing by the court. Also, the time saved by the court, the misunderstanding and heartache avoided, the early intervention in a disintegrating family and education in post-divorce parent skills received by the parties has to be considered, even when no agreement is reached.

Mediation promotes the idea that the family, even one undergoing separation and divorce, is the proper forum for decisions about custody and visitation of children.

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Appendix 9.5(b)

Procedures for evaluations in child custody disputes.

The purpose of this rule is to establish principles and procedures to provide each family and the court with accurate, comprehensive, and constructive information regarding the best interests of children involved in custody disputes. Whenever possible, evaluators should include both parents in a custody evaluation and multiple examinations of the child by different examiners should be avoided.

A. Procedure. Evaluations for use in custody disputes currently pending before the Humboldt County Superior Court may be initiated by one of the following means:

1. Written stipulation of the parties. If both parties agree to an evaluation and the identity of the evaluator, they may enter in a stipulation. Such stipulations shall name the evaluator, the issues presented for evaluation, the relative obligations of the parties for payment of professional fees, releases of information, and obligations of the parties regarding the provision of documents to the evaluator.
2. Motion of either party or the court. If the parties cannot agree on the necessity for, or details of an evaluation, a party may bring a motion for evaluation pursuant to Family Code §3110 or Evidence Code §730. Moving papers shall specify the necessity for the evaluation, the identity of the evaluator, the proposed allocation of payment for the evaluation, the issues to be evaluated and the documents to be reviewed. If the parties agree on the necessity for an evaluation, but cannot agree upon the identity of the evaluator or the proposed allocation of payment, the parties may submit a proposed stipulation to the court, and the court shall provide the missing terms. The court, in naming the evaluator, may solicit suggestions from other persons or agencies. The court, in allocating payment, shall make an order allocating costs and fees between the parties using as a guideline Family Code §3112.
3. If a custody evaluation has been completed which

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complies with the requirements set forth in paragraphs (a) or (b) above, the written evaluation report shall be received into evidence at a trial or hearing in the same case at which custody or visitation is at issue provided the report is not more than two (2) years old and the author of the report is available for examination at the option of any party. The party seeking to examine the author is responsible to subpoena him or her.

4. If a party seeks to file a custody evaluation which was obtained without notice to the other party, or which accomplished without an attempt to include the other party in the evaluation, such evaluation shall be subject to a motion to strike. If a party seeks to introduce evidence obtained as the result of such an evaluation, the court may, in its discretion, exclude such evidence on the ground that the evaluation does not comply with these rules.
5. The court, in its discretion, may impose sanctions on a party who unreasonably subjects a child to multiple examinations by different examiners.

B. Custody Evaluations-General Principles. Absent a showing of good cause to the contrary, all evaluations performed pursuant to this rule shall conform to the following:

1. The evaluator must personally interview both parents and all minors whose custody or visitation is at issue unless the age of a minor, in the evaluator's opinion, makes such personal interview unreasonable. In addition, the evaluator shall observe the child or children with each parent. Siblings shall be interviewed separately unless, in the opinion of the evaluator, separate interviews are not in the best interest of the children. Children must be informed by the evaluator that statements they make shall not be confidential.

If a child discloses information to an evaluator, the disclosure of which, in the evaluator's opinion, would place a child at serious physical or emotional risk, the evaluator may withhold such information from his or her written report and shall, instead, report such information to the

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court under separate cover and make whatever mandatory reports as may be required by law.

In addition, the evaluator shall interview, in person or by telephone, such other persons who, in the judgment of the evaluator, may possess information necessary to conduct a comprehensive evaluation.

2. The evaluator shall review all court, educational, medical, psychological, law enforcement, social service and other records which, in the evaluator's judgment, are necessary to conduct a comprehensive evaluation. Such records shall be made available to the evaluator.

C. Qualifications of Evaluators

1. Evaluations pursuant to these may be performed by any of the following:
 - a. A qualified social worker or probation officer employed by the County of Humboldt;
 - b. A mental health practitioner licensed to practice in the State of California as an M.D., Phd., MFCC, or LCSW who meets the following criteria:
 - (1) has training and experience in child development and the assessment of families;
 - (2) is willing to testify in court;
 - (3) in cases where there are allegations of sexual abuse.
 - c. Any other person who the parties and court agree has the necessary qualifications.
2. A party may seek to remove an evaluator only on a clear and convincing showing of professional misconduct or incompetence or a violation of these rules. The fact that a party disagrees with an evaluators point of view does not constitute grounds for removal.
3. A copy of the court's order and these rules shall be provided to all evaluators appointed pursuant to these rules.

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Appendix 9.7 SPOUSAL SUPPORT SCHEDULE

If the support spouse is working, and receives a net monthly income equal to 60% or more of the supporting spouse, generally no spousal support will be allowed.

If there are no minor children, and the supported spouse receives a net monthly income less than 60%, one can arrive at the minimum spousal support by subtracting one-half of the supported spouse's net monthly income from 30% of the supporting spouse's net monthly income.

If there are no minor children, the average spousal support is computed by subtracting 50% of the supported spouse's net monthly income from 35% of the supporting spouse's net monthly income.

If there are no minor children, the maximum spousal support is computed by subtracting 50% of the supported spouse's net monthly income from 40% of the supporting spouse's net monthly income.

If there are minor children, and the supported spouse receives a net monthly income less than 60%, one can arrive at the minimum spousal support by subtracting one-half of the supported spouse's income from 25% of the supporting spouse's net monthly income.

If there are minor children, the average spousal support is computed by subtracting 50% of the supported spouse's net monthly income from 30% of the supporting spouse's net monthly income.

If there are no minor children, the maximum spousal support is computed by subtracting 50% of the supported spouse's net monthly income from 35% of the supporting spouse's net monthly income.

If child support is paid by the supporting spouse, the supporting spouse's net monthly income is reduced by the amount of child support paid before applying the calculations above set forth.

The court will employ the average in determining spousal support unless good cause is shown.

Actual tax consequences of the parties after entry of the temporary order may be considered.

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